

SPECIAL COUNCIL MEETING
COUNCIL-MANAGER FORM OF GOVERNMENT WORKSHOP

MARCH 3, 2016

The Special Council Meeting Council-Manager Form of Government Workshop of the Council of the County of Kaua'i was called to order by Council Chair Mel Rapozo at the Council Chambers, 4396 Rice Street, Suite 201, Lihu'e, Kaua'i, on Thursday, March 3, 2016 at 8:35 a.m.

Council Chair Rapozo: Let the record reflect that Councilmembers Hooser, Kaneshiro, Chock, and Rapozo are present. Councilmember Kuali'i is going to be a little late, and I am assuming Councilmember Yukimura. No word from Councilmember Yukimura. Councilmember Kagawa is not coming? We have a quorum. Let us proceed. Today, we all received a draft charter. We just got it. I am assuming we can make copies for everybody in the audience.

SCOTT K. SATO, Deputy County Clerk: Chair, could we get an approval of the agenda?

Council Chair Rapozo: I do not even have an agenda. That is what I was looking for, and that is why I kind of got lost. Thank goodness this is not on television (TV). That is what I was looking for. Roll call.

The following Members answered the call of the roll:

Honorable Mason K. Chock
Honorable Gary L. Hooser
Honorable Arryl Kaneshiro (*not present at 1:20 p.m. to 2:05 p.m.*)
Honorable KipuKai Kuali'i (*present at 8:43 a.m.*)
Honorable JoAnn A. Yukimura (*present at 8:44 a.m. to 2:02 p.m.*)
Honorable Mel Rapozo

Excused: Honorable Ross Kagawa

Mr. Sato: Four (4) present.

Council Chair Rapozo: Can I get a motion to approve the agenda, please?

APPROVAL OF AGENDA.

Councilmember Chock moved for approval of the agenda as circulated, seconded by Councilmember Kaneshiro.

Council Chair Rapozo: Any discussion?

The motion for approval of the agenda was then put, and carried by a vote of 5:0:3 (*Councilmembers Kagawa, Kualii, and Yukimura were excused*).

Council Chair Rapozo: Motion carried.

COUNCIL-MANAGER FORM OF GOVERNMENT WORKSHOP:

The Kaua'i County Council will hold a Workshop to discuss revisions to Articles I through XXXII of the Kaua'i County Charter that would result in a new County Charter changing the governmental structure of the County of Kaua'i from the current system to a council-manager form of County government.

Council Chair Rapozo: We are now in the workshop. Again, everyone has received the draft copy of the proposed charter. I had met with Mr. Walter Lewis, Mr. Mickens, Mr. Taylor, and Mr. Arruda a few days ago, and there was still a question as to whether or not we needed to put forth a new charter. Unless I am informed differently from the legal department that I believe this is the only way we can go forward because of the number of amendments. Unlike the Salary Resolution, which has a lot of items on it, it is one (1) Resolution. Unlike the charter amendments that we do within a section of the Charter, if one Article of the Charter is going to be amended, even though if there is multiple items within that amendment that is sufficient, you can do one (1) charter amendment. But in this case, the amendments reach across all the different Articles of the Charter. As I interpret and I think our Legal Analyst has interpreted that the proper way to move forward would be to put forth an entirely new charter.

I am going to get into the questions first because I think it warrants some discussion. The other question is with the Charter Review Commission's (CRC) actions that could possibly result in a change in the way the Council is structured with the districts. That may have an impact on the Charter. Oh, I am sorry. Matt is here. Thank goodness we have somebody from the Office of the County Attorney. If I am saying anything out of line, please Matt, feel free to interrupt me. We are going to have to figure out a mechanism, should this move forward, because you are going to have competing interests in the charter amendment versus a new charter. Peter and I had this discussion of how do we do it. One option is to incorporate the Charter Review Commission's proposals into the new charter, which obviously would change the structure of the Council.

The other way, and again this is where I look to the legal department, is to have a proviso, if you will, or some language in the proposed charter amendment that would null and void any other amendments that would be contradictory to a new charter. So that may be something that Matt can take back and digest. If the charter amendment for districting passes this year in 2016, the 2018 elections will have the Council being elected by district, which would offset the terms of the new charter should it pass in 2018 or become effective in 2018. So you would have competing clauses or you would have a charter that said one thing and you would have the charter amendment that said another thing. Now the question is the charter

amendment would have affected the old Charter. I think the effective date of the new charter would have to be in the new charter. I do not know if I am making any sense. I realize that if in 2016 the two (2) things go to the ballot and they both pass, then at the end of the day, we will have competing charters.

Councilmember Hooser: I have a question.

Council Chair Rapozo: Yes.

Councilmember Hooser: With regards to the specific element of districting, is it possible for that charter amendment to be drafted so it would fit within this proposed charter amendment? Do you follow what I am saying, the staggered terms or whatever? So it would not be contradictory.

Council Chair Rapozo: Right, that was the first option, incorporate that amendment into the proposed charter.

Councilmember Hooser: Right.

Council Chair Rapozo: That would be the cleanest way, but I am not sure if the Councilmembers would support that.

Councilmember Hooser: Right. Let us just say for a second, if I could, that there were two (2) so-called the "master," the big charter amendment, and then there was a separate one for districting. If the districting charter amendment was worded so it was not in conflict with this...so whatever staggered terms...do you follow me?

Council Chair Rapozo: Yes.

Councilmember Hooser: I mean, then it is possible. I would think it is possible to pass them both. I do not know.

Council Chair Rapozo: The only way I think we could accomplish that would be to incorporate their language into the new charter because if this charter amendment...we are experiencing some feedback from someone's hearing aid. If the charter amendment that we are proposing or we are considering passes, the selection of the Council is at-large and if the charter amendment from the Charter Review Commission passes, then you will have districting. That affects the whole way the Mayor is...oh, I am sorry. Peter, if you want to just come up please. This is a critical issue. I want to kind of get the discussion on this before we move forward.

PETER MORIMOTO, Legal Analyst: Peter Morimoto, Legal Analyst for the Council. One of the problems would be that this proposal assumes that the Mayor would be elected separately, but would be a member of the Council. I am not sure how that would work with what the Charter Review Commission is proposing because I would assume that what they are going to do is propose seven (7)

Councilmembers. This proposes six (6) Councilmembers and a Mayor, who would be a member of the Council.

Council Chair Rapozo: Right.

Mr. Morimoto: I am not sure.

Council Chair Rapozo: Well, the reality is it would not work. So we have to figure out if there is a way and I do not know that way. I know a lot of it is going to be determined by the effective date of the Charter Review Commission's proposal as well as this.

(Councilmember Kualii was noted as present.)

Council Chair Rapozo: Now this obviously cannot be effective until 2018, otherwise it just cannot happen. This proposed charter, the new charter, would have to be effective 2018. The Charter Review Commission's action would be effective after the election. In other words 2016 or 2017. The elections for the 2016 would not be affected, but the Council elections for the 2018 would be and there would lie the conflict because this charter proposes the Council and the Mayor where the Charter Review Commission amendment would have the districting and it would be no different. The Mayor would be elected as an eighth member versus this proposed charter, which has only seven (7) members which includes the Mayor. So that is the challenge for the legal department.

(Councilmember Yukimura was noted as present.)

Council Chair Rapozo: I am not sure. Is it the effective date that we have to look at or is it language in the amendment that says in this here if in fact this passes, then the charter amendments that are in conflict with this proposed charter would be null and void. Is that even possible? I do not know how else to do it. To me, that is the only way. So when the people go to vote, they know that if they vote for this, it is going to cancel out the prior charter amendment that may have passed, which is the districting. That is the discussion, I think, we want to have discussion this morning before we move forward. Councilmember Yukimura.

Councilmember Yukimura: This draft charter, is it a completely new charter?

Council Chair Rapozo: Correct.

Councilmember Yukimura: It has reconciled the Police Commission shall...okay. How are the Department Heads selected?

Council Chair Rapozo: Wait. Councilmember Yukimura, we are not even there yet. We are talking about the potential conflict between the Charter Review Commission's actions and this one. We need to have that discussion.

Councilmember Yukimura: Has the Charter Review Commission passed the districting proposal?

Council Chair Rapozo: I am not sure if they passed it or not. I do not know if they took any action. Matt, do you know if they took any action?

MATTHEW M. BRACKEN, First Deputy County Attorney: I do not know. I know they were considering it at one point, but I am not sure.

Council Chair Rapozo: I could have dreamt it, but I thought I read a post on Facebook from one of the members that says, "Yay, it passed." But I do not know. Mr. Taylor...

Councilmember Yukimura: We should be able to find out.

Council Chair Rapozo: Yes, we can find out. Ken, do you know if the Charter Review Commission passed the districting?

KEN TAYLOR: I do not know.

Council Chair Rapozo: Okay. Can someone call Boards and Commissions? Oh, Mr. Furfaro, if you would not mind. We are going to put you on the spot right up front. Ask and you shall receive.

JAY FURFARO, Boards and Commissions Administrator: Good morning.

Council Chair Rapozo: Thank you, sir. We are just trying to figure out if in the last meeting of the Charter Review Commission regarding the districting proposal, if there was any action taken.

Mr. Furfaro: There was 4:3 decision to put districting on the ballot in the form of five (5) districts and two (2) at-large.

Council Chair Rapozo: Okay. I was not dreaming.

Mr. Furfaro: The second part of that was somewhat deferred, and that was looking at the four (4) year potential terms. The delay was based on the fact that having a good formula for the scattered of the terms so that Council does not expire all at once. One of the suggestions that they are working on at the next meeting is maybe the first year the three (3) highest vote getters get the four (4) year term first. But that was not decided, Council Chair Rapozo. That is where they are at right now.

Council Chair Rapozo: Thank you very much.

Councilmember Hooser: Question.

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Council Chair Rapozo: Councilmember Hooser.

Councilmember Hooser: Just a follow-up.

Mr. Furfaro: For me?

Councilmember Hooser: Yes.

Mr. Furfaro: Okay.

Councilmember Hooser: Just to be clear, a proposal passed to put on the ballot districting, five (5) districts and two (2) at-large?

Mr. Furfaro: Yes, with the other option being no change.

Councilmember Yukimura: Being what?

Mr. Furfaro: The other option being no change.

Councilmember Hooser: So the other option...

Mr. Furfaro: Status quo.

Councilmember Hooser: The question will be framed, "Do you support districting like this?"

Mr. Furfaro: Yes.

Councilmember Hooser: Okay. So that is one option?

Mr. Furfaro: Right.

Councilmember Hooser: With further discussion of other charter amendments that have to do with terms itself and such?

Mr. Furfaro: The term itself.

Councilmember Hooser: But those are separate?

Mr. Furfaro: Yes.

Councilmember Hooser: And would have to be passed separately?

Mr. Furfaro: Yes.

Councilmember Hooser: The voters could theoretically pass districting and not pass the top three (3) vote getters get whatever?

Mr. Furfaro: Yes.

Councilmember Hooser: Okay. Thank you.

Council Chair Rapozo: Councilmember Yukimura.

Mr. Furfaro: I do want to make myself clear though, it will be two (2) choices; the districting the way they have it laid out or no change.

Council Chair Rapozo: Okay.

Councilmember Hooser: It seems like no change is...

Council Chair Rapozo: You vote "no."

Councilmember Hooser: Yes.

Council Chair Rapozo: Okay.

Councilmember Yukimura: Well, it will be interesting...

Councilmember Hooser: I do not know why that would be a question.

Councilmember Yukimura: Well because I do not know. The way they say you count votes on the charter, you are going to have now three (3) choices instead of two (2). You are going to have districting, no districting, and no voting. How the "no" votes are counted...

Council Chair Rapozo: Yes, which is a good thing because the blank vote is not a "no" vote. Do you know what I am saying?

Councilmember Yukimura: It is counted as a "no."

Council Chair Rapozo: If you leave your ballot blank, it is not counted as a "no" vote.

Councilmember Hooser: I thought it was.

Council Chair Rapozo: No it is not. That is why I think the Charter Review Commission is saying "give them the option to vote no," that way you will get the clear...

Councilmember Kualii: Or status quo.

Councilmember Hooser: But there will still be blank votes.

Council Chair Rapozo: Yes, you will still have blank votes. There are some people out there that do not vote for charter amendments.

Councilmember Yukimura: Well, so the question is how do you count the blank votes?

Council Chair Rapozo: Well, I do not know. But that is again...
Councilmember Yukimura: Which one of the two (2) ballot choices?

Council Chair Rapozo: That is irrelevant as far as today's discussion. I think today's discussion is really what happens when you get a charter amendment passed that is in conflict with a potential change in the Charter. So that is the discussion I want to have today before we get started with the contents of the proposed charter.

Councilmember Kualii: I would just say that it does matter and that the way this County has operated, blank votes are just not even considered. They consider the "yes" and the "no," and they do not consider the blank.

Council Chair Rapozo: Right.

Councilmember Kualii: Which is not how other States do it. California counts the blank votes as "no" because basically the charter amendment is to make a change so you either vote for the change or you do not. A "no" vote does not vote for the change and a blank vote does not vote for the change. It is not how our County does it.

Council Chair Rapozo: Yes.

Councilmember Yukimura: So then neither might get the majority vote.

Council Chair Rapozo: Again...

Councilmember Yukimura: Neither choice. Then what does it mean?

Council Chair Rapozo: Again, I do not want to get into that discussion because that...

Councilmember Yukimura: No. If you do not choose the status quo, the status quo does not get the number of votes...

Councilmember Kualii: Then the change will.

Councilmember Yukimura: Nor the districting gets the majority votes.

Councilmember Kualii: One will because they are only looking at two (2).

Council Chair Rapozo: Anyway.

Councilmember Yukimura: Okay.

Councilmember Kualii: Unless it is exactly equal.

Council Chair Rapozo: The dilemma we have is assuming that two (2) charter amendments pass that are in conflict, how do we address that? Is there a mechanism in place? Does one trump the other? Do we have to talk about the effective dates of these charter amendments? Do we have to put in a clause that says, "If a new charter is passed, all other charter amendments that may have passed in that prior election will be null and void and the new charter will prevail?" That is the question I think we have to address because there is a very strong possibility that you could have the competing charter amendments and that has to be addressed.
Councilmember Yukimura.

Councilmember Yukimura: I think you are sort of setting up for a lawsuit because how can you have one charter...well maybe not. I mean, the question is whether people really knew what they were voting for and they understood the dynamics between the two (2) and the choice that they had. In one of the materials about the Council-Manager system, there was something about the loyalty of the Councilmembers has to be to the County. So if it is to one (1) district, I mean, the whole problem with districting is it makes people only think in terms of districts and you have all this maneuvering to get something for your district, and then you have these tradeoffs with other people that causes a lot of separation, fighting, and power plays.

Council Chair Rapozo: Councilmember Yukimura, hang on. I do not want to get into the discussion of districting. I do not want to get into the discussion of anything else right now other than the potential conflict between...I do not care what the amendments are. I do not care if it is districting. I do not care if it is term limits. I do not care how we feel about districting. The fact of the matter is the people will choose, not us.

Councilmember Yukimura: Well...

Council Chair Rapozo: And if two (2) passes. Whether you agree or disagree with districting has no relevance to what happens if it passes. That is what the discussion needs to be today.

Councilmember Yukimura: Well, I am trying to say that we should not give people such a confused choice. We want them to make clear choices. I think we need to go to the Charter Review Commission and have them really look at that question of districting because it actually conflicts with the basic principles of Council-Manager government. It really talks about that the loyalty has to be to the County.

Council Chair Rapozo: Okay, Councilmember Yukimura, that would be like having the Charter Review Commission come here and tell us how against the grain it is for our proposal with theirs.

Councilmember Yukimura: Well...

Council Chair Rapozo: They are an entity. They are their own. They have done their job. It is done. They voted. It is going to be on the ballot. We cannot change that.

Councilmember Yukimura: Well, I think we should have a lot more discussion between the Planning Commission and the Council, Charter Review Commission and the Council, so we can put forth together the best proposal for the public to make choices by. What you are saying is we should not have communication?

Council Chair Rapozo: I am not that. I am saying today's workshop is not about that. Today's workshop, and again, you came in late. But when we started, I just said we need to get this discussion done. We need to know what options we have should you have competing charter amendments at the end of the election.

Councilmember Yukimura: And my proposal is not to have competing charter amendments.

Council Chair Rapozo: Then you will have to vote against this one.

Councilmember Yukimura: No.

Council Chair Rapozo: It is that simple.

Councilmember Yukimura: No. I do not believe that is my choice. I am suggesting other ways to reconcile this so we get good choices before the people. I think it is bad to make one (1) charter compete with the other because then it makes the choice people actually have blurry.

Council Chair Rapozo: Unfortunately we do not have that control over the Charter Review Commission.

Councilmember Yukimura: No, and I am not saying we should assert control. I am saying we should offer communication and I do not think that is outside the boundaries of our work.

Council Chair Rapozo: Okay. Well, today's workshop is for the proposed charter and that is the direction we are going to go. Councilmember Hooser.

Councilmember Hooser: There may be another option, and it is a question of money. It would be a Special Election. I am assuming it could be done by

mail to minimize cost or other ways to do it. The Charter does provide, it is my understanding from what I can read, for charter amendments to be done by special election. So that might be one way to totally disassociate itself from this confusion that we are talking about. What the costs are and what the mechanics are, I do not know. I am just throwing that idea out there as one (1) alternative.

Council Chair Rapozo: Okay, let us talk about that. The Special Election would happen when?

Councilmember Hooser: I am not saying it. I do not know. It says, "The County Clerk..."

Council Chair Rapozo: No, I am just looking at the timing. The districting is going to be on the 2016 ballot.

Councilmember Kualii: Is that a given?

Council Chair Rapozo: Yes.

Councilmember Yukimura: No.

Council Chair Rapozo: What do you mean no?

Councilmember Kualii: What happened to...

Council Chair Rapozo: I am going to have to take a break because I am getting irritated. Mr. Furfaro...

Councilmember Yukimura: The Charter Review Commission can reconsider its decision.

Council Chair Rapozo: I am not talking about they can. I am talking about Mr. Furfaro came up and said, "They voted. It is going on the ballot."

Councilmember Yukimura: Nobody disputes that they voted for it.

Council Chair Rapozo: Councilmember Chock, you might have to help me out...

Councilmember Yukimura: But they can reconsider.

Council Chair Rapozo: ...because I am really getting...I feel my blood pressure rising because do you know what? If my aunty had testicles, she would be my uncle. We cannot talk about "ifs." We know what it is today. That is what we are discussing today. I do not want a hypothetical, speculate, no. This is what we have today. Why is it so hard to follow the direction of the Chair and say, "let us clear up this potentially problematic situation?" I have asked the question of

Councilmember Hooser, before I was interrupted, this potentially could pass in 2016. So come 2018, Councilmembers are elected by district. Potentially this thing passes in the 2016 election as well, now our Charter, the structure of the Council is in conflict with the Charter that was passed in 2016. You suggested, and I like the idea. I just do not understand the timing. So 2016, districting passes. We have districting. When would this special election be held?

Councilmember Hooser: Well, if we just think it through for a second.

Council Chair Rapozo: Yes.

Councilmember Hooser: We would potentially have a new Council.

Council Chair Rapozo: Yes.

Councilmember Hooser: So it would be their decision. Potentially we would have a new Council, so it would be their decision at the end of the day.

Council Chair Rapozo: Yes.

Councilmember Hooser: But if they agree that that was a good idea and wanted to follow through, we could theoretically do it any time. I suppose we could plan it now and do it in January, February, or March. I do not know what the...

Council Chair Rapozo: With the districting in place?

Councilmember Hooser: Well, whatever charter amendments pass...

Council Chair Rapozo: Correct.

Councilmember Hooser: ...in the November election.

Council Chair Rapozo: Correct.

Councilmember Hooser: We incorporate those into here, and then have a Special Election for this.

Council Chair Rapozo: I see what you are saying. So in other words...

Councilmember Hooser: Maybe like six (6) months later might be a reasonable time.

Council Chair Rapozo: Okay. In other words, wait to see what the results of the 2016 charter amendments are, and then do a special election for this one that would be effective 2018?

Councilmember Hooser: That would be one (1) option...

Council Chair Rapozo: Okay.

Councilmember Hooser: ...that would avoid any confusion, and this would be a standalone question.

Council Chair Rapozo: Correct.

Councilmember Hooser: It would not be thrown in with everything else.

Council Chair Rapozo: Okay.

Councilmember Hooser: Whether that is a good idea or not, I do not know.

Council Chair Rapozo: No.

Councilmember Hooser: But it is a way to avoid the confusion.

Council Chair Rapozo: Correct, that would totally alleviate any conflict between charter amendments. You would deal with the Charter as is it stands after the charter amendments should they pass in 2016.

Councilmember Hooser: Right, and again, the caveats is I do not know what it costs. It would be a new Council and they may or may not want to do it.

Council Chair Rapozo: Correct.

Councilmember Hooser: But that is an idea to avoid all of this confusion.

Council Chair Rapozo: Councilmember Kualii'i.

Councilmember Kualii'i: I am sorry I was a few minutes late, so I might have missed the very beginning. What is the deadline to get a charter amendment by this Council, by the Commission, and by petition? Is it all the same deadline?

Councilmember Chock: No.

Councilmember Kualii'i: Everybody has different deadlines? Our deadline comes last?

Councilmember Chock: I believe so. What I was told is this Charter Review Commission will be making a final decision by March.

Councilmember Kualii'i: March what?

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- Councilmember Chock: I do not what their meeting is in March.
- Mr. Furfaro: Their final meeting is March 28th.
- Councilmember Chock: March 28th.
- Councilmember Kualii: So really there were no final decisions made yet?
- Mr. Furfaro: I am sorry, not on that. Are you asking about their action or are you asking about the one (1) item I just reported on.
- Councilmember Kualii: Any item. Has there been any final decisions made by the Charter Review Commission on what they intend to put on the ballot?
- Mr. Furfaro: I cannot tell you what way they are leaning to right now. I know that the March 28th date is the last date they will entertain amendments. Obviously from then, the verbiage of those amendments will go to the Office of the County Attorney for reviews, legal terms. We will be meeting after that. But they have set their own obligations for March 28th as introducing any changes.
- Councilmember Kualii: By introducing or entertaining, do you mean final decision like a vote on "yes" or "no," or just to get it on their agenda so now the attorney can start providing them input?
- Mr. Furfaro: I think the final decision will come after the legal review by the attorneys.
- Councilmember Kualii: So that is some date later than March 28th?
- Mr. Furfaro: Yes. I think they are shooting for June. Please do not quote me for that. But I think that is what they are shooting for.
- Councilmember Kualii: Okay.
- Council Chair Rapozo: But Mr. Furfaro, you did say that the districting matter has been voted on?
- Mr. Furfaro: They voted on the set up of five (5) districts and two (2) at-large, yes.
- Council Chair Rapozo: And that one will be on the ballot in 2016?
- Mr. Furfaro: It looks that way unless it gets some legal review question about a portion of it or...
- Council Chair Rapozo: Okay.

Councilmember Kualii: So what happened to the sentiment that was expressed either by somebody on the Charter Review Commission or yourself that said we see that the Council is considering this big item of a Council Manager and that it may involve Council terms, districts, and what have you, and that the Charter Review Commission would wait for final decision on the Council so that there is not a conflicting charter amendment? At this point, there is not a conflicting charter amendment, right, because we have not finally decided and they have not finally decided?

Mr. Furfaro: I would like to clarify. My opinions do not count at the Charter Review Commission. Anything that you have heard that came out, came out from agreement from the members. What they did say is, and to answer what I believe your question was, are they continuing to work on a Managing Director and so forth. Their decision was not to because it is being reviewed at the Council level.

Council Chair Rapozo: Councilmember Yukimura.

Councilmember Yukimura: They are deferring on issues that they think are in conflict with the Council Manager that might conflict or might be decided in the decision about going forward with a Council-Manager system, it appears?

Mr. Furfaro: I think they recognize the possibility if the Council was working on a program, they did not want to have a conflict with what you came up with, so they put that into hibernation.

Councilmember Yukimura: So they apparently were not aware that districting might conflict with this?

Mr. Furfaro: I think there was some discussion at that point and that is why the term limit was not decided on because I think they recognized that possibility as well.

Councilmember Yukimura: Okay. I have something else to say.

Council Chair Rapozo: Okay. Councilmember Chock, if you have a follow-up.

Councilmember Chock: Mr. Furfaro, I attended the last meeting and my understanding is that they are having sort of a running list so as they are looking at each one on the list and approving them individually and that the March deadline that we are talking about is when they intend to reach a finalization of that entire list. Is that correct?

Mr. Furfaro: Yes. You can make that interpretation. Again, what I said is after the March 28th meeting, they do not plan to entertain any more amendments.

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Councilmember Chock: Okay. Thank you.

Mr. Furfaro: Your verbiage is similar to mine.

Councilmember Chock: Okay. Thank you.

Council Chair Rapozo: Councilmember Yukimura and then...oh, is it
a follow-up, Councilmember Hooser?

Councilmember Yukimura: Yes, and I do not have a question for him.

Council Chair Rapozo: Okay.

Councilmember Yukimura: So go ahead.

Council Chair Rapozo: Councilmember Hooser.

Councilmember Hooser: Mine is back to the Special Election issue.

Council Chair Rapozo: Okay. Any more questions for Mr. Furfaro as
far as the date? So March 28th is the final...

Mr. Furfaro: Entertaining date.

Council Chair Rapozo: Yes. Any more questions for Mr. Furfaro? If
not, thank you Mr. Furfaro. Councilmember Hooser.

Councilmember Hooser: The Special Election will have to be vetted by
the County Attorney. Looking closely at the charter provisions, it seems to say that
if the Council or a petition puts forward a charter amendment, it shall be at the next
General Election. The provision about the Charter Review Commission says "at the
next General Election or Special Election."

Council Chair Rapozo: So we do not have that ability?

Councilmember Hooser: It seems like we do not, only the Charter
Review Commission can call the Special Election, is what it seems. But I am
obviously not an attorney.

Council Chair Rapozo: Matt, can you take a look real quick...

Mr. Bracken: What section are you looking at?

Councilmember Hooser: At Article XXIV. What is that?

Council Chair Rapozo: Twenty-four (24).

Councilmember Hooser: Initiation of amendments.

Council Chair Rapozo: Let us understand that Matt is here and nothing will be construed as an official opinion unless he says so. He can give us his interpretation today, but understand that it would require some research and legal review. So for discussion purposes, he is a great resource person. Yes?

Councilmember Chock: Also, in regards to the issue that Councilmember Yukimura is having with the districting, before we talk any more on that subject, what I want to see is what she is referring to so that we can all be looking at the same thing. We can take that as a separate item if you want.

Council Chair Rapozo: Yes. I want take this discussion as far as it will go. If we have to wait for a response from the County Attorney, that is fine. But I want to at least have that discussion before we get into the meat of the proposed charter because I would hate to do all of this work and like Councilmember Yukimura said, I am thinking out loud so I do not want a lawsuit coming our way. That is all I want. I want to prevent that lawsuit. I do not know what that mechanism is. I am just again, thinking about loud. That is what workshops are for. Councilmember Yukimura.

Councilmember Yukimura: I found it. It is the Code of Ethics and Conduct for members of the Council, recruitment guidelines for selecting local administrators from the ICMA. It says that Code of Ethics has a preamble and it says, "Primary Focus. Both Council and its Administration recognize that it is allegiance and loyalties are to the town as a whole and not to any individuals or groups." How I read it is that a subsection of the town or the County is a group. I believe it does conflict and I know that some Council-Manager forms of government have Councils by district. But I think the underlying dynamic is something we have to understand. I am saying this because it is clearly in conflict. I will tell you, if districting passes, it does not make sense to put a Council-Manager form of government on the Charter and say that to pass it would negate the districting because we want to say, "Well, let us try it for a while." It does not set up a place where people can really make a good decision about the Council-Manager form of government.

As an example of how destructive districts are, I had a situation when I was Mayor where a legislator from this island got another legislator from O'ahu to introduce the bills that he/she wanted passed. Also, the first design of the transit system on O'ahu was going to go to Salt Lake instead of the airport.

Councilmember Hooser: But we are not debating districts.

Council Chair Rapozo: Again...hang on.

Councilmember Yukimura: I know. But I am trying to show you how destructive this is.

Council Chair Rapozo: Councilmember Yukimura, hang on. I am not sure. If I am not getting across to anybody, please tell me. Let us do this. Close our eyes, let us pretend that the charter amendment is not districting. Let us pretend the charter amendment is anything else. Let us pretend you have charter amendment "A" and charter amendment "B." Let us not use districting. Let us not use terms. So you have charter amendment "A" and you have charter amendment "B," and they pass. Charter amendment "A" conflicts with charter amendment "B." How do we rectify that?

Councilmember Yukimura: The attorney should be able to tell you that.

Council Chair Rapozo: And that is who I want to hear from.

Councilmember Yukimura: Well, you are not asking them. You are asking us.

Council Chair Rapozo: Let us do this, Councilmember Chock, why do you not take over for a little bit. I am going to get my cup of coffee and maybe you can manage this a little better because I am having a tough time getting through. I think it is a very simple issue or simply described issue, and I am not going to get into the mechanics. I think Councilmember Hooser recognized that because he said, "Hey." I am going to ask Councilmember Hooser.

Councilmember Hooser: I think you summarized it very well.

Council Chair Rapozo: Thank you.

Councilmember Hooser: "A" and "B," regardless of what they are, are voted and they conflict. I am sure this happens in other jurisdictions. I mean, it is a very real possibility and what happens when that happens is the question for the County Attorney.

Council Chair Rapozo: Let me say, I do not disagree with Councilmember Yukimura, but that is not the discussion. That discussion will come, but I am looking at the mechanics, the logistics, and the legality. Mr. Bracken. Thank you.

Councilmember Chock: Good job.

Mr. Bracken: Matt Bracken, First Deputy County Attorney, for the record. To address the first question about Special Elections, just based on my review of Article XXIV, it appears that the Special Elections would only be for the Charter Review Commission. So that would not be something the Council would be able to do, just on a quick review of the Charter. Now based on the conflicts that might occur with the charter amendment from the Charter Review Commission versus the new charter, a lot depends on the language, which I would imagine has to be sent to the Office of the County Attorney. For the proposed amendment, I think it

depends what the language actually is versus what the language would be in the new charter. I think looking at effective dates will definitely be a consideration. But if you have a new charter that is coming, and again, I would prefer to do more research on this.

Council Chair Rapozo: Yes.

Mr. Bracken: But just for purposes of discussion today, if you have a new charter coming in and the new provision is, because I would imagine a lot of new charter provisions are going to conflict with the old Charter anyway. But potentially the new charter would trump the old Charter and the amendments to the old Charter.

Council Chair Rapozo: We will send something over in writing. I will ask Peter to draft up the questions. I think for me, and again this is an offshoot of Councilmember Yukimura's concern about being sued, you have advocates for the proposed charter amendment from the Commission, and let us say that passes. Then you have the advocates for the new charter, which would null and void the...does the people that voted for that districting and got the districting all of a sudden get it taken away? I would assume the charter amendment for the proposed charter would have to clearly inform the voters that by voting for this, you negate the prior action that was done by the Charter Review Commission. I mean, I think it would have to be very clear that if you are voting for this, you are basically taking the districting away.

Mr. Bracken: I agree. I think providing as much information as possible so that...I mean, if that is clear and they vote on that with that being clear, I do not think you would have any...

Council Chair Rapozo: Yes, then I believe the notice is there.
Councilmember Hooser.

Councilmember Hooser: The core question is conflicting measures passing. So if there are two (2) measures; one says five (5) districts and one says three (3) districts and they both pass, what happens? Are they both negated? Is there any other communities where this has happened? What would be the outcome of that?

Council Chair Rapozo: Well keep in mind though Councilmember Hooser, the negation remember, the election in 2018 would have already been done. Oh, because we will know the result of it in 2016?

Councilmember Hooser: Yes. Whatever they are, they conflict and both of them were passed.

Mr. Bracken: I think a lot depends on the language of the proposed amendments. I could not really say without looking at the language, to be honest.

Councilmember Hooser: Right.

Mr. Bracken: And without doing a little more research on the subject. But if you have a new charter versus an amendment to the old Charter, I would presume that the new charter would trump it. But again, I would have to look at the language.

Councilmember Hooser: Because we have three (3) different opportunities to change the Charter. So we could have a citizens' initiative offering one (1) choice, the Charter Review Commission offering one (1) choice, and the Council offering one (1) choice.

Mr. Bracken: If they are all presented at the same time and the voters have an opportunity to vote on them, you would hope they would not vote on two (2) conflicting things. But I guess that is not...

Council Chair Rapozo: But it is very possible.

Mr. Bracken: It is very possible.

Council Chair Rapozo: Councilmember Kualii.

Councilmember Kualii: Well, I do not really have a question for him.

Council Chair Rapozo: Okay. Any more questions for Matt? I do. At the end of the day, the language would be approved by the Office of the County Attorney, correct?

Mr. Bracken: Correct.

Council Chair Rapozo: So you would have all these charter amendments, whatever has been passed by the Commissions or the Council or the petitions, and you folks would approve of the drafting of the language for all. I would assume your office would ensure that the necessary language is in place should a conflict occur after all of your legal research.

Mr. Bracken: All of the amendments would be reviewed by the Office of the County Attorney. I think there still could be some difficulty in that the amendments are being proposed by different areas.

Councilmember Yukimura: Yes, they are not...

Mr. Bracken: Whoever the attorney that would be reviewing the amendments for the Charter Review Commission might not necessarily be the attorney reviewing the proposed new charter. In essence, we are reviewing for form and legality where both could be legal. You would have the right to propose a new charter as well as the Charter Review Commission has the right to propose an amendment that potentially could conflict.

Council Chair Rapozo: Okay.

Mr. Bracken: So even though we would review them, I think they could still both be placed in front of the voters.

Council Chair Rapozo: Okay. So you will provide us with the opinion as to what would happen based on this specific circumstance?

Mr. Bracken: Yes. I think I need to do a little bit more research.

Council Chair Rapozo: Oh, yes. Hang on. Councilmember Kualii had a question.

Councilmember Kualii: Yes. You may not know right off and may need to look it up. There is not anything the Charter that specifics the process for doing a charter amendment with regards to those that come from the Council, those that come from the Commission, and those that come from the citizens by petition. You would think that there would be some kind of democratic hierarchy based on the Commission is the lowest level because it is appointed by the Mayor with confirmation by the Council, the Council because it is elected by all the people, and then the petition because it is actually drawn and written up by the people themselves. So when there is a conflict, if it is addressing the same issue, instead of putting it both on the ballot separately with the chance of people voting them both up, that you would think. I mean, clearly look at the Salary Commission. The Salary Commission alone, does not make the decision. It still has to be confirmed, if you will, by the full Council. Now it is a five (5) vote. So it gives the Salary Commission a lot of power, if you will, to make that decision. But they do not make the final decision. There is nothing in the Charter that deals with this conflicting...where we are coming to...where we have seemed to come to.

Council Chair Rapozo: I would argue that the authority or there is no hierarchy. I would argue that the Charter gives the Charter Review Commission that authority, and it is on the equal plane as the County Council as would be the petition. I would think that. But again, I am the farthest thing from an attorney possible. Councilmember Hooser, if you have a question or discussion.

Councilmember Hooser: I think a close reading of the Charter makes it even more of a conundrum here. The Charter actually says "initiation of amendments can be done by the Council or petition."

Council Chair Rapozo: Yes.

Councilmember Hooser: A new charter is with the Charter Review Commission. It says, "Initiation of Amendments," and then there is a section for us and for a petition. Then on the Charter Review Commission, it says "amendments or new petition." So that is number one. Number two, I do not believe the County Attorney or this body can designate that our amendment is more important than their amendment. Certainly I would not be supportive of that to say our authority is greater than the people's authority.

Council Chair Rapozo: Oh, yes.

Councilmember Hooser: But it looks like at least initially, it says "Amendments to this Charter may be only in the following manner," Council up to two (2) readings and petition to the Council, and then an election should be called. The Charter Review Commission is the only place it says "a new charter," and that is when we first do a special election. So whether we can propose a new charter or not is unclear to me. That is again...

Council Chair Rapozo: Happy Girl's Day by the way, Councilmember Yukimura. I forgot to wish you a Happy Girl's Day.

Councilmember Hooser: I am not an attorney. But I do have one (1) semester of law school.

Council Chair Rapozo: Yes, I can tell. I am not a lawyer, but I stayed at a Holiday Inn last night. Let us do this...

Councilmember Yukimura: I have a...

Council Chair Rapozo: Okay, go please. Thank you, Councilmember Hooser.

Councilmember Yukimura: I think we should send this issue to the Charter Review Commission and tell them to propose a reconciling amendment.

Council Chair Rapozo: Oh my gosh.

Councilmember Yukimura: But I have a question for Matt. Is there any language...I think actually Councilmember Hooser made a similar point. But is there any language that can prevent a lawsuit?

Council Chair Rapozo: You are a lawyer.

Mr. Bracken: You are talking about inserting language in the new charter to prevent a lawsuit?

Councilmember Hooser: No.

Councilmember Yukimura: Huh?

Mr. Bracken: Inserting language into the new charter to prevent a lawsuit?

Councilmember Yukimura: Well, yes I guess so or whatever language to the charter amendment that is being proposed.

Mr. Bracken: Unfortunately not. When the State gave the authority to the Counties to create County Charters, it also gives the authority to sue and to be sued. That is by State statute and unfortunately we cannot. As much as I would love to make some lawsuits go away, we cannot really.

Council Chair Rapozo: Okay. I will tell you what, I think you understand, well I know you understand what the potential dilemma we are in. I think Councilmember Hooser's last comment raises a question for me and I would like to explore that. If you could maybe take a few minutes now and give us what your thoughts are because if I am hearing you correct, in the language there is a possibly that we cannot do a new charter. That is what I heard you say.

Councilmember Hooser: That is what it looks like. It was definitely a possibility. The section of the Charter talks about amendments, it talks about the Council and a petition. The only place it talks about a new charter and a Special Election is in the Charter Review Commission, which is only for ten (10) years and we do not have to keep them going.

Council Chair Rapozo: Why do we not...go ahead please.

Councilmember Kualii: What prevents us from working together? What prevents us from doing what we want the Charter Review Commission to do, passing it, and then passing it to them to pass it? What prevents us from working together to prevent the conflict from happening?

Councilmember Yukimura: Yes.

Councilmember Kualii: Nobody has gotten to their final deadline yet. We are talking about all hell breaking loose, but we can prevent that from happening. So why do we not focus all of our time and energy on that? They are not overwhelming decisive. They had a 4:3 decision on the direction that they are going into and they have not made a final decision yet. I am wanting to look back at their minutes. Mr. Furfaro says he cannot really speak for them, but they have minutes of their meetings and they are not at a final decision yet. So let us work together to avoid that, to avoid the conflict on the amendment and to avoid any lawsuits.

COUNCIL-MANAGER FORM OF GOVERNMENT WORKSHOP

Council Chair Rapozo: Nothing prevents us from working with the Charter Review Commission. But being the realist that I am and listening to the Charter Review Commission representative here, they are well-aware that the Council was working on a proposal for a Council-Manager system so they tabled that. They are well-aware that the Council was working on a County Manager system. So they basically referred the term limits and the staggered term issue because it would be in potential conflict. They were well-aware that the Council was working on a County Manager system as a charter amendment, but they chose to move forward on the districting. Am I confident that we cannot change their mind? Absolutely not. That is why one of our options is to incorporate their amendment into our proposed charter. Now, I do not know the mechanism. I mean, I guess we could schedule a County Council/Charter Review Commission workshop. I mean, I guess we could schedule that, post that, and have that meeting. Aside from that process, we have our work to do on this workshop. Unless you want to defer this, we can. We can take the public testimony and we will see if we can get the Charter Review Commission and the Council together. But I guess for me, I deal with the matters as is sits today. This is what we have today and this is what we have to work on today. If we can schedule something, we can, and we will adjust at that point. But for today, we have to work on this matter, and that was one issue. I think with Peter working with the Office of the County Attorney and getting those answers, I think we can move on to the discussion of the contents of the Charter or the proposed charter. I do not disagree that we should be working with them and I do not disagree that there may be a point where we can come to an agreement. But I will tell you it is a huge difference. Districting and not districting is major. It is a major difference and it is a major conflict. I am not sure and I am not going to ask Mr. Furfaro to speak for the Commission because I do not think it is fair for him. But you are right – 4:3 you just have to convince one (1) person that it is not good and it could all change. But from the discussions I have had with a couple of the Commissioners, I believe that the districting was pretty important to that Commission and I do not believe that they will change. But anyway, that is just me. Councilmember Yukimura.

Councilmember Yukimura: They may have been aware that we are doing a Council-Manager charter so they did not act on theirs. They may be aware that the staggering terms would conflict so they did not work on that. They may not have been aware of how conflicting the district thing could be if it is on the Charter at the same time. If we explain that to them, they may be willing to defer that districting until after we deal with the Council-Manager form of government so they can put it on the next General Election ballot not this coming one, because I think to incorporate districting into a Council-Manager form charter amendment will be terrible because you will not know what people are really voting for because as you said Chair, it is such a drastic change that people may be voting against the Council-Manager form of government just so that the districting does not pass and vice versa. People might vote for the Council-Manager charter amendment thinking that is the only way to get districting and it really muddies the water. I think we need to talk to them. Maybe they can defer that until we decide the big question about Council-Manager, which is the fundamental question, and then do the districting afterwards.

Council Chair Rapozo: Councilmember Hooser.

Councilmember Hooser: I am putting my one (1) semester of law school to work here. Can you tell me again why we cannot just amend the Charter? Why do we have to do a whole new Charter?

Councilmember Yukimura: We cannot.

Council Chair Rapozo: Because of the Charter provision or the Charter requirement that each amendment, each change, has to be done as a separate amendment.

Councilmember Hooser: Okay.

Council Chair Rapozo: Or as a new Charter.

Councilmember Hooser: If that provision is a provision underneath the Charter Review Commission, it is a separate item. It is not under our items. Section 24.03 Charter Review, is about the Charter Review Commission and their powers. Underneath that, it says, "A" and "B," which says it must be voted separately. In the other sections, it does not say it has to be. It says "amendments," we can propose amendments. I mean, it looks to me that provision that says they have to be separate is specifically located under the Charter Review Commission section.

Council Chair Rapozo: That is Mr. Lewis' argument.

Councilmember Hooser: Okay.

Council Chair Rapozo: Mr. Morimoto.

Mr. Morimoto: Not to throw more mud in the water, but if you look at the...

Councilmember Yukimura: Give your name.

Mr. Morimoto: Peter Morimoto. Subsections "A" and "B" under Section 24.03 talks about it, "B. Summaries of any new charter or amendment shall be published in a newspaper of general circulation within the county, and the entire text published by electronic or online publication on the official website of the County of Kaua'i..."

Councilmember Yukimura: Can you talk louder please?

Mr. Morimoto: Basically, this provision also applies to charter amendments whether proposed by a petition or by the Council. I am not certain that Section 24.03 only applies to amendments proposed by the Commission.

I think Sections “A” and “B” also apply to amendments proposed by the Council and by the voters.

Council Chair Rapozo: Where did Matt go?

Mr. Morimoto: I do not know.

Council Chair Rapozo: He had enough?

Councilmember Hooser: He is hiding. He is out of here.

Council Chair Rapozo: He is at the employment office looking for another job.

Councilmember Yukimura: He should listen.

Council Chair Rapozo: Yes. I do not know where he went. He says there is too many damn attorneys in here. He is out.

Mr. Morimoto: Also too...

Mr. Furfaro: Chair, he is right outside here. He is on the phone making a call.

Council Chair Rapozo: Oh, okay.

Mr. Morimoto: Chair, I believe we did sent a memorandum (memo)...

Council Chair Rapozo: Oh, we did?

Mr. Morimoto: ...a request for an opinion along these lines.

Council Chair Rapozo: That is probably what he is calling to check on the opinion, I would assume, or he is calling LegalZoom.

Mr. Morimoto: Finally, I handed out a new Subsection 2.03. In the second paragraph where it talks about the first four (4) members, it should be three (3).

Council Chair Rapozo: Oh, okay.

Mr. Morimoto: So substitute the word “three” for the word “four.”

Councilmember Hooser: From the what?

Councilmember Yukimura: It is in this one.

Mr. Morimoto: No.

Councilmember Yukimura: We are talking about the draft charter that we are looking at today?

Council Chair Rapozo: Yes.

Mr. Morimoto: No. I handed out a separate piece of paper. It is right under.

Council Chair Rapozo: But it is to correct the draft?

Mr. Morimoto: Right.

Council Chair Rapozo: Okay.

Councilmember Hooser: And that draft is not redacted? It is just all new?

Council Chair Rapozo: Yes.

Mr. Morimoto: Correct.

Councilmember Hooser: I mean, it is not ramseyer I should say.

Council Chair Rapozo: It is to substitute, yes. The only reason I had Peter do this was so we could, what is that word? Codify or perpetuate. I do not know. Anyway, all of the discussions we had at the last workshop, I did not want to lose it. I asked Peter to at least put it in this. That is all this is. This is basically the encapsulation of all we talked about and agreed on so that we...

Councilmember Yukimura: Well, it is hard to track though if you do not show what the changes are.

Council Chair Rapozo: Well, you have your Charter. I mean, the changes are so drastic that it would be a mess if you...

Councilmember Kualii: There are so many.

Council Chair Rapozo: Yes.

Councilmember Kualii: Where the word "Mayor" came up and...

Council Chair Rapozo: But the hope and the plan was to go through each page and the things that we have questions on, we will take that out and we will discuss that. But I just wanted a starting point and I felt this was the best way. Matt, you look like you have something to tell me. I do not know.

Mr. Bracken: I did look over the charter amendment in the portion that was pointed out by Councilmember Hooser. At this point, I think I am going to need additional time just to consider the possible implications. But I cannot really say at this point if the authority for creating a whole new Charter or lack of authority...

Council Chair Rapozo: Okay. Anybody in the public wishing to testify at this point on what we have discussed so far? Oh, I am sorry. Peter.

Mr. Morimoto: One (1) last point. With regard to districting, the model City Charter, which is the Charter recommended by the ICMA has districting proposals as well...

Council Chair Rapozo: Okay.

Mr. Morimoto: ...that go along with the County Manager.

Council Chair Rapozo: I know that it is not uncommon. Go ahead. Do you have one that is related to that? Please.

Councilmember Chock: Peter, when you put this together, did you reference that model City Charter for this?

Mr. Morimoto: Yes. Some of the provisions in this draft come from the model Charter.

Councilmember Chock: Okay.

Mr. Morimoto: And some of them come from our current Charter.

Councilmember Chock: Okay. Just because you have been really close to this, the concern about the districts was not very prevalent to me because I can recall that there were those scenarios in there. Can you validate anything, what Councilmember Yukimura's concern is when it comes to this issue?

Mr. Morimoto: I do not recall districting being a concern and conflicting with the manager model.

Councilmember Chock: Okay.

Mr. Morimoto: Like I said previously, the model City Charter or County Charter that the ICMA recommends also has alternative provisions for districting in addition to at-large Councilmembers.

Councilmember Chock: I have a question now too because I think it is an interpretation that we are talking about. But I will find out more details for us to discuss. Thank you.

Council Chair Rapozo: I mean, I believe I would guess the majority of Councils, Commissions, or whatever it is called wherever you go, I would believe are districts, not at-large. Everywhere I go, I have yet to meet a Councilmember or a Commissioner that is elected at-large, and I have met thousands of legislators throughout the Country. They freak out. They are like, wow. At-large, really? I think the norm is districting and I think the exceptions are at-large. I am talking about not the kind where they hire or elect three (3) Councilmembers in relatively medium sized, small/medium communities.

Mr. Morimoto: Well in my review of the model City Charter, one of the issues seemed to be proportionality. In the model City Charter, what they do is they actually convene a Commission to study one (1) person one (1) vote and how to configure the districts to have proportional representation.

Council Chair Rapozo: That will be a challenge, I think, should that pass. That will be a challenge. Councilmember Hooser.

Councilmember Hooser: I want to make sure that we ask the County Attorney the right questions. If we could capture this, for me anyway. The provision calling for each amendment must be voted separately, does that provision apply to Council initiated amendments, is one (1) question. The second question I have is, is the Council authorized to do an entire new Charter or is that authorization limited to the Charter Review Commission? I think those are two (2) key questions that come from my reading, anyway today, and I want to make sure those were captured.

Council Chair Rapozo: I also want the review on the Special Election as well.

Councilmember Hooser: Okay.

Council Chair Rapozo: Because I am not sure. Based on what you read, I do not think we can. But if you could just explore that.

Councilmember Hooser: Final question, if I could for now anyway, final question. Essentially, how do you define an amendment? Is an amendment one (1) change to one (1) paragraph or can we say four (4) changes to four (4) paragraphs on one (1) amendment, and then that is voted on at once? Did you get that?

Mr. Morimoto: Yes.

Councilmember Hooser: Thank you.

Council Chair Rapozo: Okay. Go ahead, Councilmember Yukimura.

Councilmember Yukimura: I just want to recall that there was a Special Election on the Nukoli'i initiative that...

Council Chair Rapozo: Do you remember who put that? Was it the Council?

Councilmember Yukimura: It was a citizens' initiative, a ballot initiative that countered the first ballot initiative which passed to downzone the zoning at Kaua'i Beach Resort. Then, a citizens group backed by the developer initiated another petition right after Hurricane Iwa and then up-zoned it back again. They wanted to do it right away. The developer paid for the election.

Councilmember Hooser: But that was not a charter amendment, I do not believe.

Council Chair Rapozo: No.

Councilmember Yukimura: That is right.

Councilmember Hooser: That was an Ordinance.

Councilmember Yukimura: That is right.

Council Chair Rapozo: Yes.

Councilmember Yukimura: Thank you.

Council Chair Rapozo: That was a referendum. Let us take a timeout.

Councilmember Yukimura: Good distinguishment.

Council Chair Rapozo: We will give the public an opportunity to testify if they want. Again, like we did the last time, we are not going to set the clock. We just want you folks to participate and just be respectful. Oh, Peter.

Mr. Morimoto: In drafting the amendment to the Charter and because of some Hawai'i Supreme Court cases that basically prohibit zoning by initiative, I included language to that effect in the Charter.

Council Chair Rapozo: Okay.

Councilmember Yukimura: Can you point that out? That is why it is hard to see the added language.

Councilmember Kualī'i: Just highlight it.

Councilmember Yukimura: Yes. Sometimes it is hard to find the deletions because you do not know where the deletions are.

Council Chair Rapozo: Would it be the initiative referendum limitations?

Mr. Morimoto: Yes.

Council Chair Rapozo: Page 41, Section 21.02.

Mr. Morimoto: I believe so, yes.

Council Chair Rapozo: Yes, where it talks about any Ordinance relating to zoning.

Mr. Morimoto: Correct.

Council Chair Rapozo: Yes, that would be the limitation to the initiative referendum. So page 41, Section 21.02.

Councilmember Yukimura: What words exactly were added or deleted?

Mr. Morimoto: I added the phrase, "any ordinance relating to zoning." It is at the top of page 42.

Councilmember Yukimura: Is it your opinion that Charters cannot supersede a Supreme Court decision?

Mr. Morimoto: Well, it is not my opinion. It is the Hawai'i Supreme Court's opinion.

Councilmember Yukimura: No, but I am asking the question. Could the people not...

Mr. Morimoto: The Hawai'i Supreme Court basically banned zoning by initiative, prohibited zoning by initiative. I do not think they care whether it starts as a charter amendment or however it starts.

Councilmember Yukimura: So the basis of their decision if it was based on a Constitutional issue then if we change the Constitution, although...

Mr. Morimoto: Actually, no. I think they based it on the Hawai'i Revised Statutes.

Councilmember Yukimura: Right. So if you can change the Hawai'i Revised Statutes, would that address the Supreme Court's opinion?

Mr. Morimoto: Potentially, yes.

Councilmember Yukimura: Would that also apply to a County Charter?

Mr. Morimoto: Well, the general rule is that Charters supersede statutes unless the statute is one that generally applies to all Counties. In this case, Chapter 46 applies to all Counties and therefore, it would supersede any Charter provision.

Councilmember Yukimura: Okay. I would like a written opinion on that, please. I think I would like to request it of the County Attorney.

Councilmember Hooser: I have an additional question too.

Council Chair Rapozo: Yes.

Councilmember Hooser: This change that we were just informed of does not seem to relate to the County Manager decision.

Council Chair Rapozo: Yes.

Councilmember Yukimura: Yes.

Councilmember Hooser: Why are we putting this in it?

Councilmember Yukimura: It also does not relate to anything we discussed.

Councilmember Hooser: Are there other changes like that in there?

Council Chair Rapozo: I think because...

Councilmember Hooser: Even if it is well-advised, it is not part of...

Council Chair Rapozo: If we wanted to put that in as a separate charter amendment, we could. In other words, take it out of this one. But that is where the complication starts. So this is an opportunity for the County to create a new Charter.

Councilmember Hooser: Right. Okay. I would like to start and focus only on those changes needed for the County Manager system.

Council Chair Rapozo: Okay. Peter did provide us with a spreadsheet at the last workshop.

Councilmember Hooser: Right. But this particular one, I do not think should be included even if it is intended to comply with the law or court decisions or whatever.

Council Chair Rapozo: Okay.

Councilmember Hooser: Yes. I just do not want us to while we are at it, we are going to tidy up the Charter unless we are really clear on what we are doing and it is ramseyered and we know what the words are.

Mr. Morimoto: Aside from that provision, the only substantive change that I can see is I removed the electric power provision since we already have Kaua'i Island Utility Cooperative (KIUC).

Councilmember Kualifi: Where is that?

Council Chair Rapozo: Okay.

Councilmember Yukimura: I think those two (2) changes are part of a Charter review and are the things that would distinguish a Charter review from an amendment because if the essence of the amendment is a Council-Manager system, then the only things you change would be those things related to a Council-Manager system. That makes it one (1) amendment because it is one (1) purpose. A Charter review is you go through each section of the Charter and you say "do we need to update it here" or "do we need to change it policy wise" like that. That is mandated to the Charter Review Commission. But if we want a single purpose amendment and our single purpose happens to be very comprehensive because it is defining the principle relationship between the Mayor and the Council or the administrative and the legislative parts of County government. So it involves a lot of changes. But it is still one (1) amendment. It is one (1) purpose. If you start getting into all these thing that are unrelated to Council-Manager structure, then it becomes a review.

Council Chair Rapozo: Okay. Well, that was the direction to Peter, to look at whatever needed to be cleaned up because we are coming forward with a new Charter. That is what the workshop is for. As we get through the potential changes, if there is no agreement on the Council, it does not go on. But that was an opportunity, and I think Peter mentioned the two (2) other changes that to me, makes sense. Obviously the public would have to be notified. But it was an opportunity to start fresh with a new Charter. I think it is long overdue. I mean, we had things in there that needed to be cleaned up. But again, at the end of the day, it is the body's decision. If you do not want that in, it is not going to go in.

Councilmember Yukimura: Chair, I do not think we, at least I did not, want a Charter review. I wanted to see a Council-Manager amendment. As we began to work on it, we realized that it touched so many parts of the Charter that it turned into kind of a major overhaul of the Charter but in fact our real initial purpose was Council-Manager. I think we would be better off just staying with that especially if

we want to validate that we can do it. If we can do an amendment and the amendment from a Mayor-Council form of government to a County Manager form of government requires all these amendments, it is still one (1) amendment. I think arguably, it is under our jurisdiction too. But that is what the question is that Matt is going to be answering.

Council Chair Rapozo:

Councilmember Kualii.

Councilmember Kualii: Then the flip side because we do not know if we can do this wholesale change, if you will or not, and if it is only left to the Charter Review Commission, then we put everything in and we send it to them. So if it is everything that has to do with the Council-Manager system as well as these two (2) items that came to our attention and maybe have not come to their attention, then we put it all in, we send it to them, and we get them to pass it so that then in the end, there is just this one (1) thing and that is all the voters will be voting on, no potential for conflict. But a lot of requirement for education and pointing out the major pieces, which these two (2) would have to be pointed out separately and then the Council-Manager. Council-Manager is still one (1) big system that ends up making many little changes. But it is still the concept, if you will, that they are voting on to go that way or not.

Councilmember Hooser: First of all, I understand the intent if we are going to do a whole new Charter, then we could fix some things. I understand that intent. But I do not agree that we should go there. I think we might have a Sunshine Law issue with that also. This item that spurred this discussion, the public does not know we were talking about changing this particular provision, which is not related to the County Manager issue. I would like to focus on only County Manager issue items and avoid all others. At some point, we will need a ramseyered version, even if it is going to be cumbersome, to see exactly what changes are being made. We know "mays" and "shalls." Little words matter sometimes and I would like to see all the words. Thank you.

Council Chair Rapozo: It does now because we have a new County Attorney. I think now "shall" mean shall and "may" means may.

Mr. Morimoto: Again, Peter Morimoto. The notice referenced discussion regarding amendments to all sections of the Charter.

Councilmember Hooser:

Okay.

Council Chair Rapozo: Okay. We are going to take the public testimony now just so we can kind of get you folks involved. Mr. Watanabe. A blast from the past.

RICKY WATANABE:
Councilmembers.

Good morning Council Chair and

Councilmember Kualii: Good morning.

Mr. Watanabe: My name is Ricky Watanabe and I would like to thank you for this opportunity to provide my opposition to the potential of a County Manager type of government. I am opposed to that type of system for the following reasons: one, I feel it increases the cost of government or it would increase the cost of government; it provides an additional burden to the residents of added bureaucratic level; it reduces the checks and balances, the fundamental principle of democracy; the possibility of controlling operations and administration of government by the legislative body instead of an executive administrator, it is hard to grasp and it would be difficult to revert back should it get changed to a Mayor and Council type of government should there be corruption or an unresponsive legislative body. For those reasons, I oppose the changing of the type of government that we have on Kaua'i. I do not believe Kaua'i is ready for that type of government. I also think you folks haul discussion on the charter amendments. I believe we started discussing that two (2) years ago, Peter. About two (2) years ago we started meeting with the Office of the County Attorney discussing amendments to the Charter whether it is separate or whether we have to print the whole amendment or what, and I do not think it was ever resolved. I see you folks looking at the 2016 election, 2018 effective, that is kind of a really tight schedule. After all, two (2) years I remember discussing charter amendments. That is my feeling about changing County government. I would recommend we stay with the system we have now and look at charter amendments and all of those things like districting separately and not throwing it all in one (1) pot. It would be chaotic.

Council Chair Rapozo: Thank you, sir.

Mr. Watanabe: Thank you.

Council Chair Rapozo: Ken.

Mr. Taylor: Chair and Council, Ken Taylor. I have only had time to quickly go through the first twenty-three (23) pages of this, but I have a few things that have jumped out at me. Do you want to go through that?

Council Chair Rapozo: Well, at this point, I just want to have some discussion of where we have come so far. As we go through the Charter, you will have opportunities to come back because if each individual goes through this Charter with their concerns, then I think it will...

Mr. Taylor: Well...

Council Chair Rapozo: If you have some major concerns, yes, please.

Mr. Taylor: One of the things that goes through this is in reference to Committees. The Committees today, report to the Mayor. In this form of government, the Committees report to you folks.

Councilmember Yukimura: What Committees?

Mr. Taylor: There are conflicts in a number of areas in this document that need to be, I think, taken a look at and changed. I think as this four (4) year change in time for you folks, I think this would not be a good choice at this point in time. I think it is important to leave the structure four (4) years for the Mayor and two (2) years for you. This brings a problem on page 3, Section 2.08 under Mayor. It says, "The mayor shall be a voting member of the council and shall attend and preside at the meeting of the council, represent the county..." and so on. But up above in Section 2.07, it says, "...after the inauguration and swearing-in ceremony at which time it shall elect one of its members as chairperson..." that needs to be struck out because the Mayor would be automatically voted in and become the Chair of the Council, I believe. Then under Section 2.08(b) on page 4 under Election, "At each regular election the voters of the county shall elect a mayor at large for a term of four years." Again, that is true if you make the change. But if you leave it two (2) and four (4) at this time. I just believe that it would be better to look, as you talked earlier about districting, the four (4) year terms, and those things to be done at a different election after this is hopefully adopted. Anyway, that is my comment on that.

It jumped over to the powers and duties of the Manager. Well maybe before that, the County Manager, Section 6.01 Appointment; Qualifications; Compensation. I think that should be written stronger than what it is, spelling out stronger educational activity and experience. Under Section 6.04. Powers and Duties of the County Manager, number (3). "Attend all council meetings." I think that should be "he or his appointee" should attend all Council Meetings. Like I said, I just went through this very quickly and there are probably other things that need to be looked at. But these were just some of the things that quickly popped out.

Council Chair Rapozo: Ken, we have not gone through those sections.

Mr. Taylor: I am sorry.

Council Chair Rapozo: We have not gone through those sections.

Mr. Taylor: Yes.

Council Chair Rapozo: So that, we still have to go through. I mean, there will be a lot of discussion as we move through this as proposed.

Mr. Taylor: Anyway, I think one of the threads as I said earlier, the Boards and Commissions are appointed by the Mayor and Council, and they report to you, not to the Manager. The Manager is going to be sitting as an ex-officio member of those Boards and Commissions. In all cases, they may be making recommendations to their Department Head, but their annual reports or quarterly reports or whatever would be given to the Council. The purpose of those Boards and Commissions are to help you make the decisions when the Manager comes forward with recommendations. I think that needs to be looked at or at least discussed

amongst yourselves as what is the purpose of the Boards and Commissions. It is not to advise the Manager. It is to advise the Department Head and you folks. If you have questions then to the Manager, you put those forth to the Manager. But the Manager is going to be sitting with the Boards and Commissions or an appointee of his to work along with them. It needs to be addressed in there. Anyway, I will leave it at that for now.

Council Chair Rapozo: Thank you. Mr. Mickens.

GLENN MICKENS: For the record, Glenn Mickens. Thank you, Council Chair Rapozo. Council Chair Rapozo, I really appreciate you having these workshops. It means a lot to us. We were offered ten (10) years trying to get this, and I appreciate all you members for showing up. Only Councilmember Kagawa did not show up. But I really appreciate that. Before we get into the nuts and bolts of this thing, the question Councilmember Hooser asked was outstanding about three (3) entities that can control this thing, the Charter Review Commission (CRC), you folks, and the petition. Before we get into it, is this an exercise in futility? This, I presume, I really appreciate seeing this thing, the changes in the Charter. I thought Councilmember Yukimura's comment about making it as simple as possible for the public. I thought that was outstanding because the people are going to have a hard time understanding this. The simpler it is, obviously, you are going to get them to vote one way or the other. Otherwise, they are going to look at it and start talking about districting and everything. I think it is just going to be blurred over by the people. Before we get into the nuts and bolts of this, what happens to this document now? I mean, you have gone through the thing and made this thing. It took a lot of time and effort making these changes, and obviously the individual things as Ken is doing and the people will do or talk about the individual things. Before I even get into this, what happens to this document?

Council Chair Rapozo: What do you mean what happens?

Mr. Mickens: Well, I mean, where does...

Council Chair Rapozo: This is our working document.

Mr. Mickens: Right. But where does it go from here?

Council Chair Rapozo: It depends. After we are done with the vetting out of this and we hopefully come to an agreement of what that final document will be, we will take the vote.

Mr. Mickens: Right.

Council Chair Rapozo: And if we get the votes, then it moved onto the ballot. But you started off to say "is this an exercise in futility?" Councilmember Hooser's questions are important questions. I do not know that answer. The attorneys will get back to us, I would assume in the next couple of weeks or so.

Mr. Mickens: Right, that is exactly what I was asking. Councilmember Hooser brings up outstanding questions because if you go forward with this thing and all of a sudden the CRC or the legal people have the jurisdiction over this, this is a waste of time. So somehow, I do not know how you bring this up.

Council Chair Rapozo: It is very simple. We will wait for the response from the County Attorney.

Mr. Mickens: Then he will be the judging factor at this stage of the game?

Council Chair Rapozo: He will give us the opinion and it would be this Council's choice whether to follow the opinion or not.

Mr. Mickens: If the three (3) entities are in conflict, who is the ruling thing? None of them?

Council Chair Rapozo: That is what they are going to be answering. Those are the questions that we will be sending across.

Mr. Mickens: Okay, because you are going to say, "Who is the Supreme Court in this thing?" You do something, the CRC does something, and they are in conflict. Who is going to rule on that? Again, I guess as you are saying, our County Attorney then will be the deciding factor. I mean, you are going to ask him all of the things in this, what are legal and what are not legal, before you can put them before a vote for the public I presume?

Council Chair Rapozo: Yes, whatever the attorney's rule. If they say the new Charter trumps the charter amendment, that will happen. Then everything will be reversed, and then if someone sues, then the court will decide. But absent the lawsuit, it will be the attorney's call.

Mr. Mickens: Well, I would hope that the attorneys then would structure it in such a way or go over the thing so nobody is going to be able to sue because of what you are doing here.

Council Chair Rapozo: Well, I do not think you can prevent anyone from suing. But I think...

Mr. Mickens: Well, that is true.

Council Chair Rapozo: ...that is why we are giving them the opportunity to do the legal research.

Mr. Mickens: Right.

Council Chair Rapozo: This has had to have happened somewhere else.

Mr. Mickens: Yes.

Council Chair Rapozo: There was some place in America where there were competing amendments.

Mr. Mickens: True.

Council Chair Rapozo: And that is what they are tasked with, to go find out what was the outcome and make their opinion based on that. At that point, we will decide what to do. Based on what Councilmember Hooser has been reading, we might not even have the ability to produce a new Charter.

Mr. Mickens: Right.

Council Chair Rapozo: I do not know where we go, but I am not going to waste today's time and just say, "Hey..."

Mr. Mickens: Well, that is why I am saying I think it is ridiculous to go through these things point by point at this stage of the game if all is said and the work you are doing or the people are wondering about it is going to be shot down the drain because maybe our lawyer has a different opinion of it because he is going to be able to say. Again, right now the conflict, it does not seem to be a petition out there from the people. But the conflict sounds like it is going to be the CRC.

Council Chair Rapozo: Yes.

Mr. Mickens: And whether like Jay has said, the CRC, I guess, until March 28th is making their final decision on this. I guess you are going to have to wait and find out. But is the conflict going to be here? Are they really going to be in conflict with this?

Council Chair Rapozo: That is what Mr. Bracken is going to have to determine and let us know.

Mr. Mickens: Okay.

Council Chair Rapozo: Because again, there is a possibility that we really do not even have this authority.

Mr. Mickens: Yes.

Council Chair Rapozo: Councilmember Yukimura brings up that same point as Councilmember Hooser and Walter that we do not need to do a whole

new Charter. We can do an amendment that encompasses all the amendments related to the change we want to make.

Mr. Mickens: That is what I thought when Councilmember Yukimura made that statement, that it is one (1) change from the Mayor to the thing. Basically everything in the Charter, which simplistically the Charter is going to make that change where you had like Walter Lewis keeps on saying, where you have "Mayor," you are changing it to "Charter." That is simplistic and I know that there has to be more done than that particular thing. But I think for the people to understand it, he is going to know that that Mayor is going to be sitting here with you folks. Like Ken points out, the Manager is not going to be making the decision. You folks are going to point to the Manager to go ahead and do something that is going to be more streamlined, it is going to be more open to the public, and everything. That is his job. He does not do it like the Kilauea Gym roof. Twenty-four (24) years. He is going to let that thing leak for twenty-four (24) years and spend thousand or dollars on something like that.

Council Chair Rapozo: Okay. Again, the workshop is not to validate the system.

Mr. Mickens: Right.

Council Chair Rapozo: I mean, apparently this Council has said that there is some merit. So now the workshop is really how do we structure this charter amendment?

Mr. Mickens: Right. Well, Ricky brought it up. I mean, he brought up he is against it. The people that are opposed to this, I just want to make sure that we have the story straight with them, what is and what is not. They get this false impression, which again, you are going to have. The public is going to have to really be educated for this to be able to know what they are voting for and what they are not.

Council Chair Rapozo: I agree.

Mr. Mickens: But anyway, again, I really appreciate Council Chair Rapozo, you holding these workshops because we would have hoped that it would have been done ten (10) years ago like this. But we did not have you, Councilmember Chock, and Councilmember Kaneshiro going up to Seattle, doing your investigation, listening to people, entities all over the Country, having this type of system and it is working. Anyway, thank you, Council Chair Rapozo.

Council Chair Rapozo: Thank you. Judge.

ALFRED LAURETA: Alfred Laureta. I did not intend to make any long discussion on what has been submitted for you folks to work on. However, I wanted to just find out primarily what is the relationship now between the

Commission and the Council itself. I mean, is the Commission doing anything or following-up on the meetings that they have had in the past or are they continuing their discussion as to whether or not the Commission should be working on the problem of whether or not we have a Manager situation? Listening to what has passed by, I am not sure whether or not you are telling the Commission what to do or is the Commission standing by and hoping that something might happen. I just wanted to find out if they are really...

Council Chair Rapozo: I do not believe we are telling the Commission what to do.

Mr. Laureta: I see.

Council Chair Rapozo: But there was some discussion that we should be meeting with them and communicating with them to figure out.

Mr. Laureta: Okay. But eventually who is going to be submitting an ordinance for the voters to vote on?

Council Chair Rapozo: For this matter?

Mr. Laureta: The Council or the Commission?

Council Chair Rapozo: For the County Manager system?

Mr. Laureta: It will be.

Council Chair Rapozo: No. For the County Manager system you are asking about?

Mr. Laureta: Okay.

Council Chair Rapozo: Okay.

Mr. Laureta: I thought I would just mention a few things that I have talked about before. I would certainly like to just remind you of what my position has been, and I think you all do understand my position on the idea of a Council-Manager problem. I would like to say for example, things that have been mentioned regarding what and why we should remain where we are with the system we have now. I would like to say for example, that a Mayor is selected because of popularity and a Manager is chosen because of education and experience. That is what the people who support the idea, they are the ones who are saying, "That is the reason. We have a Mayor but he is not educated and experienced." That is not true. We do have people like the Mayor and people on the Council. These are people elected by the people and chosen because of the education and experience that you have. I would like to say for example, that you do believe that the President, the Governor, the Mayor, the Legislators, Councilmembers, and all elected officials, do not consider

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the education and experience of those who may appoint to Boards, Commissions, and other appointed positions. No. I seriously believe that you do that. That is what you are doing when you appoint anybody to any particular position. Changing the system will not guarantee an elimination of the problems of the supporters of change that is perceived. An elected Council, unless a majority agrees with you on issues, will continue to represent what they believe are the wants and needs of the people and the Mayor will appoint people who will, by their education and experience, perform the duties of the office to which they are appointed. It is a mistake to have the chief executive now our Mayor, replaced by a Manager who is elected and appointed possibly by a majority of four (4) members of an elected Council instead of keeping the Mayor who is elected by a majority of thirty thousand (30,000) or more voters who have the opportunity of evaluating his or her education, training, experience, background, and character. Keeping the title "Mayor" for example, and providing for an election for the Mayor in the Manager system of government. There is nothing more than a charade; a false pretense designed to fool and mislead voters in thinking that we still have an acceptable Mayor system of government. The title "Mayor" is defined and traditionally has always been the official elected to act as chief executive or normal head of a bureau or County. I think the Manager system is certainly not going to accomplish that. We are just substituting something for something that does not necessarily have to be substituted. I still strongly believe that the system we have now works very well for the County of Kaua'i. Thank you very much.

Council Chair Rapozo:

Thank you, Judge. Mr. Hart.

BRUCE HART:

In regards to the question that you have, I am no attorney either. But it just seems logical to me to assume that if you were able, this Council, to create a new Charter and that would, in effect, then trump anything that the Commission does that you would in fact have the power to just completely neuter the Commission. Now, somebody might say, "Well, that is ridiculous that you would create a new Charter every time you wanted something." But it is possible. Any City Council could just create a new Charter every time they disagreed with the Commission. I think that it probably will turn out to be that there is a balance of power here, that the Council can create amendments like Councilmember Hooser said, and the Commission can, by Special Election or however if I understand it, can create a new Charter. That would be some kind of balance of power, otherwise, the Council could just override the Commission whenever they wanted to by creating a new Charter. Okay. So that seems to me, that is where that will go.

I think that you all know with respect to everybody that is here, that I prefer the Constitutional system that we have. From my perspective, this whole idea of County Manager has come about, and I hope I can express it better than I did last time. My homely last time I apologize for. I do not need to be lecturing any of you. I think it has come about because of frustration. I think we heard some of that frustration when I was here yesterday in the public, on the Council, and among both Administrations. Maybe I am sounding redundant, but I am just asking you, you have a majority vote. If you can get done what you want to get done by five (5) of you agreeing and if you all agree, could you imagine it if on several key issues there was

a 7:0 vote in favor of what the Council wanted? That would send a thunderclap into the community. If it happened consistently, if on big issues you did this, it would just make a statement that would really resound through the whole community. I will also ask you that...I do not see it. Maybe I am ignorant of something. But I do not see that the Council and the administrative branch cannot work together. I just do not see it. If I was on this Council, I would not give up reaching out to the other branches of government. I just would not give up. I encourage this opportunity. I know that they are not here. I wish they were all here...that the other branch of the government would work with this Council. Again with all respect to what we are doing here...I do not think it would be necessary if we were all working together. Thank you very much.

Council Chair Rapozo:

Thank you, Bruce. Ken.

Mr. Taylor:

I am discussing Section 23.03 on Charter Review. First of all, I would like to remind you that prior to 2007, the Charter Review Commission was in place for three (3) years every ten (10) years. I think the original purpose for that was that the Charter is not supposed to be changed regularly. It is the Constitution of the County and I think it needs to go back to that. The reason for giving the Council under the pass the opportunity to put forth amendments was that during that gap in time, that if something really important came up, the Council had the ability to change the Charter. I think we need to go back to the three (3) and ten (10) program. The other thing and it says here in the Charter, "to study and review the operation of the county government..." They are supposed to do that study before they make any recommendation to change the Charter. To my knowledge, that has never been done. One of the reasons that we went to a ten (10) year program in 2007 was because in 2005 and 2006, there was the discussion of management style of government and the Charter Review Commission at that time made a decision that it was going to take a lot of time and effort. A letter from at that time Mayor Baptiste, made the suggestion to put forth a ten (10) year window to study the management form of government along with other things. That timeframe is to sunshine at the end of this year. One of the discussions that has been going on at the Charter Review Commission is to make the Charter Review Commission permanent, which I think is a big mistake. I think this needs to be reworded and go back to a three (3) and ten (10). I also do not believe that it is the Manager's responsibility. It is your responsibility to set that Commission in place for three (3) years every ten (10) years, and then they report back to you. I think this whole section needs to be redone. But that is just some of the information that I have come across since I have been here in the short period of time. But a lot of people have forgotten about the three (3) and ten (10), and that should not be because as I said, the Charter is the Constitution of the County and it should not be changed on a regular basis year in and year out. Thank you.

Council Chair Rapozo:

Thank you. With that, I am going to take a short recess. I mean, we do not have a captioner, but we have bladders. We are going to take a ten (10) minute recess, come back, and then what I want to do is have the discussion on where we want to go from here because I think Mr. Mickens did bring

up a good point about are we going to waste our time, only to be told by the attorneys that we are doing it all wrong. Councilmember Chock.

Councilmember Chock: I agree. I mean, that is a fundamental question. If we do have to...

Council Chair Rapozo: Hold on. Please, we did not recess yet. Hold on. Sorry about that.

Councilmember Chock: No worries. Thank you. If we do have to move kind of down a different road with whatever options we do have available to us like what was discussed by Councilmember Kualii, I think the feedback that I have been getting from the Commission is no, please work on it as much as you can and then come to us to discuss it if there is a need to down the road. I just wanted to say it. That being said, I feel like there is more that we can do in terms of work, but certainly, this is the elephant in the room. Thank you.

Council Chair Rapozo: Councilmember Hooser.

Councilmember Hooser: We may have discussed this before, but is there examples of other communities who have switched or have most of them been there forever, had made this pretty significant change in their Charters and gone from a Mayor system to a County Manager system?

Councilmember Chock: Yes.

Councilmember Hooser: There has?

Councilmember Chock: There has.

Councilmember Hooser: Okay.

Councilmember Yukimura: Follow-up.

Council Chair Rapozo: Yes.

Councilmember Yukimura: I mean, one of the questions then would be what have they learned and how did they go through it. We should look maybe at the successful models. We might still be able to learn something from the unsuccessful models. It is a big transition and we need to do everything we can to prevent lawsuits, uncertainty, and conflict because that will interfere with us making a transition, should we choose to do that.

Council Chair Rapozo: Any other discussion before we take the recess? Okay. With that, we will take a ten (10) minute recess.

There being no objections, the meeting recessed at 10:25 a.m.

The meeting reconvened at 10:44 p.m., and proceeded as follows:

(Councilmember Yukimura was noted as not present.)

Council Chair Rapozo: Okay. This is where we are at. Mr. Morimoto.

Mr. Morimoto: Chair, in addition to the previously mentioned substantive revisions to the Charter, I also deleted a section that related to appointments to the Planning Commission made after...that section of the Charter was amended because I think it was in 1980 or so, the Charter was amended to require that two (2) members of the Commission have awareness of environmental concerns, two (2) members have business concerns, and two (2) members have knowledge and awareness of organized labor concerns.

(Councilmember Yukimura was noted as present.)

Mr. Morimoto: The second paragraph read, "This amendment shall take effect upon its approval and apply to appointments or reappointments made thereafter. All Planning Commissioners presently serving may continue to serve their remaining terms notwithstanding this amendment. The mayor shall phase in this requirement in any order the mayor deems appropriate as terms expire or vacancies arise." I deleted those sentences mainly because they no longer apply. But I kept the last sentence which reads, "At the time of appointment, the mayor shall declare which interest the appointee represents."

Council Chair Rapozo: And that would be in direct relationship with the County Manager structure, right? I would agree with Councilmember Hooser's (inaudible) because I read the posting as it was specific to the County Manager. But again, that is the discussion when we get to the proposal.

Mr. Morimoto: I also revised references to the revised laws of Hawai'i 1955, as amended, and updated it to reference the corresponding sections to the Hawai'i Revised Statutes.

Council Chair Rapozo: That is all referenced in your spreadsheet that you provided at the last meeting, right?

Mr. Morimoto: The references to the 1955 Session Laws were not.

Council Chair Rapozo: Okay.

Mr. Morimoto: No.

Council Chair Rapozo: Maybe you can reconcile all of the changes into one (1) document. Ladies and gentlemen, this is where we are at today right

now. We have a lot of questions going over to the Office of the County Attorney, which I would expect them...I do not know Mauna Kea, two (2) weeks maybe?

MAUNA KEA TRASK, County Attorney: Yes.

Council Chair Rapozo: Minimum two (2) weeks? We are flexible. But it is time sensitive.

Mr. Trask: Can I just ask...

Council Chair Rapozo: Although we do not have the tv, we still have the minutes.

Mr. Trask: For the record, Mauna Kea Trask, County Attorney. This is in regard to the questions that went over to the Office of the County Attorney pursuant to this morning's session. I spoke with him briefly, the First Deputy County Attorney Matt Bracken, about them. We will be looking into them. We would request the minimum two (2) week turnaround. We will also let other Departments know that we are looking at something really important right now so we would appreciate it if they would tone down whatever requests they have. We have some current outstanding requests for this body that we are working on. So just in the meantime if we could just use your opinion request judiciously so as to allow us to do all of this. We also have budget going on and some other questions that are happening. It is always a time management issue. Thank you.

Council Chair Rapozo: We appreciate that. In other words, he said hold off on any other request until this one is in. Several tracks we can take. Number one is we can reschedule or defer this workshop until we get the responses back from the County Attorney, which would be prudent, I guess. We can continue on discussing with the knowledge that it may be an exercise in futility. We could further discuss the key topics that we believe are a priority. I guess we will have that discussion. Councilmember Kaneshiro.

Councilmember Kaneshiro: I think we sent some very good questions to the attorneys and I think how we move forward is really going to depend on the answers that we get back. For me, I would rather see what they say. Depending on their answers, we are probably going to first and foremost, discuss what direction we are going to take if we actually are not able to do a Charter or anything like that. For me, I would think we hold off. I do not know. Maybe there might be no options for us to continue with this process and any more discussion on it would kind of be for nothing. I would be comfortable with just waiting and seeing what they say.

Council Chair Rapozo: Councilmember Yukimura.

Councilmember Yukimura: We recognized at the beginning that this would be a huge job. If we just defer it until we find out things legally, it is going to get harder and harder to make the deadline for this election. I had suggested that

we defer it or we take all the time necessary to work on it to make it to a Special Election next year. Maybe one (1) of the questions we need to send too is whether we can have a Special Election. But we should not stop work on this because we are working on something that will be of use sometime in the future. The Charter Review Commission has indicated a desire to have us work on it because I think they know that it is an issue that needs to move forward. I know how much work it is taking. That is why I suggested that a longer timeline might be more workable, which would be to work for having it ready next year which misses this year's election, but allows us time to do the work it take to put a good choice before the people. I will personally lobby for it and I suggest that we need to think through this issue of districts because it is such a far-reaching change. I guess we could just have the district question on and then incorporate it into the County Manager amendment if we look at next year and if we can do a Special Election or we wait two (2) more years and have the district question settled independently before the Council-Manager question. But if we are looking at this General Election, we better not stop working.

Council Chair Rapozo:

Councilmember Kualii.

Councilmember Kualii: I also agree that we should continue working because I do not think any of the answers that come from the attorney will tell us we do not have any options to move forward. We definitely have options to move forward. If the Charter Review Commission can put something up for ballot, we can as well. So we have options. I only think that as we develop a possible proposal and iron out some of the decisions, the micro-decisions that need to be made for such a proposal, that we also at the same time work on the piece of keeping connected with what the Charter Review Commission is working on.

Council Chair Rapozo:

Councilmember Chock.

Councilmember Chock: Chair, I do not know if there is some key items that we might be able to maybe narrow down on. I would be supportive of a few of those if the body wanted to talk about those things. Just off the top of my mind when I look at this, we already have something to take a look at. I do not need to see every single cross-out like in a ramseyered style. But it would be good to kind of get a sense of where all of those changes are even if they are identified on the column for us to kind of review as we go along, that way we know what we need to continue to address. But as I recall, there was an outline previously with some fundamental questions we needed to get cleared up.

Since I have the floor, I will just share that I did get a response from ICMA on this whole districting. ICMA's results of the 2011 Municipal Form of Government survey said, all at-large, this is for how Councilmembers are selected, sixty-six point three percent (66.3%); all by ward or district, sixteen point five percent (16.5%); and then a combination of at-large and ward district, seventeen point two percent (17.2%). In addition, the trend is moving towards a combination of districts and at-large more prevalently. So those are numbers are changing significantly.

Also, the question about what is the better way, amendment process or a whole new Charter. This is just a discussion point, not a recommendation really right now, but just some things to consider. Obviously if you go down the amendment path, then we are going to lose some or we are going to win some on that one. You never know what you are going to get, basically, in the end if you take each amendment separately because I do think the reason why we went down the road of doing one (1) new Charter is because we wanted to get as close to as possible to what the best practices are which we talked about initially. The other thing to think about is that the people, if they do not agree with one (1) section, they might just vote against the whole thing.

Councilmember Yukimura: Oh, yes.

Councilmember Chock: And that might defeat the whole Charter. Hard decision. But I asked them to give me a rundown on those cases where they were successful and not in terms of the pathway that we are discussing.

Council Chair Rapozo: Councilmember Yukimura.

Councilmember Yukimura: I do not believe it is an option to have separate amendments that would form a County Manager form of government or a Council-Manager form of government. We have to have them coordinate it. But I think there is a difference between putting all the amendments for Council-Manager form of government, Council-Manager is the way to say it, in one (1) amendment versus a whole new...and that would basically be all of the amendments to the Charter in one (1) amendment versus a whole new Charter, which are unrelated changes to the idea of a Council-Manager form of government. I am suggesting that we create an amendment where the changes are only those that are required in order to implement a Council-Mayor form of government including those that are required to reconcile conflicts like the appointment of Boards and Commissions and things like that. It could be one (1) amendment, which means basically you are reprinting the Charter with all of the places that are changed, but nothing but those changes that are required to implement a Council-Manager form of government.

Council Chair Rapozo: Okay. Any other discussion? Councilmember Kaneshiro.

Councilmember Kaneshiro: I think for me, it is no secret or if it is a secret, I do not plan to vote for a Council-Manager system. When we were first going through this I said I was hesitant, and I think The Garden Island newspaper wrote that I was hesitant on whether I wanted a Council-Manager system or a Mayor system. But in reality, I was hesitant about us spending an entire year on redoing the Charter. For me, it was let us spend a workshop on what the best managing practices are, what the flaws are in our system, and how do we fix it is what I would have rather spend my time on. My comment in the beginning about "let us wait," because I am not going to vote for it, I do not want it to influence how the process goes. I know our time is valuable too. I respect whichever direction you want to go. I sit here and I take the stance of the same thing as what we heard yesterday. I may not support the whole

thing, but I do believe input is important. If we take votes on any small parts and I feel like it needs to go in a way where I think the County Manager system is improved by a swing vote, then I think it is important to be here. I am making my position clear that I have no intention of voting on it.

Councilmember Yukimura: Or even voting for it.

Councilmember Kaneshiro: Voting for it. I will leave it up to you folks on how you want to proceed. I do think if the attorneys come back, I mean, even if we prepare this whole thing and we give it to the Charter Review Commission, I think it is in the Charter Review Commission's hands. They are able to adjust it the way they want to do it and I do not know what our power is to say, "Oh, no but this is exactly how we wanted it. This is how Council all voted on it." But once it gets into their hands, they are the ones that are being the champions of it. Maybe some people are not comfortable with some of the things in our Charter and I am pretty sure they could gladly and will change it. I do not think when we send it there, it is a definite set in stone that that is what they have to put. I do not know if that is the rules. But that is just my comments.

Council Chair Rapozo: Councilmember Hooser.

Councilmember Hooser: I am attracted to the idea, but I do not know if I am going to vote for it until it is done. So I am willing to put the additional energy into it to keep the discussion going and keep working on it. But I am pragmatic and a realist, I would like to think anyway, and there are a whole lot of moving parts. Whether it is likely that we can resolve all the moving parts to allow me to vote on it or to allow us to vote on it, I am getting increasingly less confident that is going to happen.

Councilmember Yukimura: Before the election?

Councilmember Hooser: Pardon?

Councilmember Yukimura: Before this election?

Councilmember Hooser: Before this election, yes, just looking at this particular version. What I am looking for is a vehicle that we can then start mending or whatever, ultimately. So this particular version, I am probably not going to be supportive of having the Mayor be the seventh member of the Council and no veto power. I do not see veto in here. I am going to require some kind of veto. The model I am probably going to look at the end is going to be an eighth person as the Mayor. But I understand this is the starting point for discussion. I understand we have discussed this already. These are series of straw votes that we are doing and none of us are bound by those as we move along.

Council Chair Rapozo: Like I said, this is a working document. This is a starting point. So we can go through the major issues. I think one of the major

issues is the selection of the Council and the selection of the Mayor. I think that is a very important issue, and we can start there and come to some consensus on what that should be. The selection of the Commissions, that is another big top issue. Qualifications of the County Manager is another tough issue. I guess I am asking you folks which direction you folks want to go. I mean, we can start anywhere. Go ahead, Councilmember Kuali'i.

Councilmember Kuali'i: To see this draft as a proposal in texture form like this is further than I thought we would go as far as a workshop. I saw this workshop as a workshop to see where we were on the big issues, like one of them what he just mentioned whether it is seven (7) and the Mayor or seven (7) including the Mayor, which is the Chair. Just those basic big decisions that need to be made. If we found that there was enough support for any of those pieces, that one (1) of us who wanted to put such a proposal forward who would be wise to put a proposal forward that they felt could get passed, would use the smaller decisions or the poll of support, if you will, amongst us to piece it together of something that ultimately could be passed out of this Council. But I did not see this workshop making the proposal because it would still have to be one (1) Councilmember putting something forward, the one that is most motivated, if you will, based on the information gathered from these workshops. These workshops are open. It is public so everyone knows and anyone can come. But maybe we should specifically invite representatives from the Charter Review Commission so that they can influence that as well so it gets us further along as far as depending on how these legal questions get answered and whether we need them to ultimately do it. We would have them involved in formulating it so they would be more likely to do it at some future date.

Council Chair Rapozo: I just wanted to make a clarification that this is not a proposal. This is a working document.

Councilmember Kuali'i: Right.

Council Chair Rapozo: I much rather work off of something like this than the spreadsheet. That spreadsheet is difficult. It is great to isolate the different areas that will be changed, but this is not intended as a proposal. This is just simply a draft document that we can work from that clearly points out all of the different Articles that has to be discussed and it has to be agreed to or changed and amended. This is not a proposal like a bill where we are going to have to make a motion to amend. Going with the selection of the Mayor, I think just having that discussion...

Councilmember Kuali'i: Could we work with this and the spreadsheet at the same time and is this the spreadsheet that came from Peter?

Council Chair Rapozo: Yes.

Councilmember Kuali'i: On February 4th?

Council Chair Rapozo: Yes.

Councilmember Kualii: Okay. So we just go from the top then.

Council Chair Rapozo: Well, that is what my plan was, if we just go down the list because obviously the most important parts of this document is the beginning.

Councilmember Kualii: Right.

Council Chair Rapozo: That is where the structure is formed.

Councilmember Kualii: Okay.

Council Chair Rapozo: And we can do that. We can go right down page 1.

Councilmember Kualii: Let us do it.

Council Chair Rapozo: Powers of the County. Article II, County Council. I do not think those will change. I think Section 2.03...

Councilmember Kualii: The spreadsheet is what represents changes that were incorporated into here, right?

Council Chair Rapozo: Right.

Councilmember Kualii: So according to the spreadsheet, the first one is Section 1.03, which talks about County elections.

Council Chair Rapozo: Well again, those were the changes that had to be taken from the old Charter. But the instruction I gave to Peter was using the IMCA model Charter as a guide. So that is why it is difficult to go through the checklist because it is not in order or the numbers are not going to be the same as what the working document would be.

Councilmember Kualii: Okay.

Council Chair Rapozo: Go ahead, Councilmember Yukimura.

Councilmember Yukimura: No, go ahead finish.

Council Chair Rapozo: No. I am just suggesting that we...

Councilmember Kualii: I do not want to look at every word if it has not been changed. Let us just look at the proposed changes and that is why the spreadsheet was one (1) working document that points out to us where changes were made. The minor changes of just changing the word "Mayor" to "Chair" obviously, is semantics. But the major changes about the makeup like the example that

Councilmember Hooser mentioned about seven (7) versus eight (8). Those are the significant ones. That is like the foundation of any proposal that comes forward. All of those big decisions about who has which authority to do what and how they are elected in position. I am not sure where those sit in this compared to the spreadsheet, and like what you are saying now is the spreadsheet is kind of obsolete because the spreadsheet was based on the existing Charter and this is based on the ideal Charter with ICMA.

Council Chair Rapozo: Right, with the changes incorporated. Again, not all that you see in this working document we discussed. I mean, we only touched on a few of the items in the last workshop. Everything else that is in here still has to be addressed. But let us just start with Section 2.08 on page 3, the Mayor and the Powers and Duties of the Mayor. I think the first question, and I think we had that discussion. But the first question is how the Mayor will be selected. Will the Mayor be elected? Will the Mayor be selected by the Council?

Councilmember Kualii: My straw poll vote is elected.

Council Chair Rapozo: Well, if you read (b), it says "Election. At each regular election the voters of the county shall elect a mayor at large for a term of four years. The council shall elect from among its members a deputy mayor who shall act as mayor during the absence or disability of the mayor and, if a vacancy occurs, shall become the mayor for the remainder of the unexpired term." That is what is in this working document. Basically, it will be elected for a four (4) year term. Councilmember Kaneshiro.

Councilmember Kaneshiro: That is consistent with our notes from the last time we were here when we went through it. Based on our notes, they said that elected by electorate and be the Chair.

Council Chair Rapozo: And that is why I asked Peter to do this so we could basically reconcile and put in what we had...so we are not discussing the same thing over and over.

Councilmember Kualii: But are we seeing if we have five (5) votes?

Council Chair Rapozo: No. At that time, we did when we had the discussion.

Councilmember Kualii: Maybe I was not here.

Councilmember Chock: No, you were.

Councilmember Yukimura: I think you were.

Council Chair Rapozo: Councilmember Yukimura. Maybe you were not here.

Councilmember Yukimura: For me, one of the issues that jumps up is it says "The Council shall elect from among its members a deputy mayor who shall act as mayor during the absence or disability of the mayor and, if a vacancy occurs, shall become the mayor for the remainder of the unexpired term." That means that if in year one on a four (4) year term the elected Mayor passes or moves or something, then the person elected by the Council becomes the Mayor for three (3) years. You are not going to have someone who is elected by the voters. I think we would want to have the succession plan that is in our present Charter, which if there are so many months left to the term, then there is a Special Election so that we have a Mayor that is elected by the people and not by seven (7) members of the Council.

Council Chair Rapozo: Okay. The Council is elected by the people.

Councilmember Kualii: Yes.

Councilmember Yukimura: Well, then you could also have a Mayor that is elected by the Council. But I thought we philosophically said that was not what we wanted. So to be consistent, if three (3) out of four (4) years are going to be by a Mayor that is not elected by the people, that is an issue we should discuss because I think I am somewhat hesitant to allow that.

Council Chair Rapozo: Okay.

Councilmember Kualii: I do not have a problem with it because this is not the old fashioned Mayor. This is a new Mayor that is primarily the Chair of the Council. The only thing that I would say is when the Council votes for the Deputy they are voting for a Deputy to fill in when he is sick or cannot be there because he or she is traveling. But then if it was three (3) years left, the Council should again make a decision and elect among themselves. It should not be automatic that the Deputy becomes the Mayor. That is my only thing.

Council Chair Rapozo: Okay. I think the language in the current Charter as far as the vacancy in the Mayor's Office is fine where you have that Special Election depending on how many years.

Councilmember Kualii: The Special Elections cost money, to me. So I do not think we should have them unless it is so big and so important.

Council Chair Rapozo: What is the current? Is it half a term?

Councilmember Kualii: If it is more than two (2) years you mean?

Council Chair Rapozo: I cannot remember what it is.

Mr. Morimoto: "In the event the..."

Councilmember Kaneshiro: Do you want to sit over here?

Councilmember Kualii: Yes, just sit here, Peter.

Councilmember Kaneshiro: You can sit next to me.

Mr. Morimoto: Peter Morimoto. This is Section 7.07 of the current Charter. "Section 7.07 A. In the event of a vacancy in the office of the mayor, the council shall select, by majority vote, one of its members as mayor to serve until the next general election and assumption of office in December by the person elected mayor."

Councilmember Yukimura: We are talking about...

Council Chair Rapozo: Okay.

Councilmember Chock: That is the current Charter.

Mr. Morimoto: That is the current Charter.

Council Chair Rapozo: So that is the current Charter. Basically, the Council would select?

Mr. Morimoto: Yes.

Councilmember Kualii: No matter how much time is left in the term?

Council Chair Rapozo: No because we had a Special Election when Bryan died.

Councilmember Yukimura: Yes.

Council Chair Rapozo: I thought there was a time. If it was a short period of time, the Managing Director or the Administrative Assistant becomes the Mayor. That is what happened. Gary Heu became the Mayor and then we had the...oh, it said until the next General Election, right?

Mr. Morimoto: Yes.

Council Chair Rapozo: Yes, that is correct. What?

Councilmember Kualii: Kaipo became the Mayor.

Council Chair Rapozo: No. The Administrative Assistant becomes the Mayor until the Council selects. If we do not select one within a certain amount of days, then they select. But the next election, which was not a Mayor's election, became a Mayor's election.

Councilmember Kualii: Yes.

Council Chair Rapozo: So it is until the next General Election.

Councilmember Kualii: So no Special Election?

Councilmember Yukimura: No, it would not be a Special Election.

Councilmember Kualii: That is good.

Council Chair Rapozo: So they would only serve until the next election.

Mr. Morimoto: Yes.

Council Chair Rapozo: If the person vacated in a year, the Council appointee would only serve for the year.

Mr. Morimoto: It goes on further to say, "In the event the vacancy occurs prior to the mid-term election, the person elected mayor in the general election shall serve only for the unexpired term of the mayor elected in the prior election."

Council Chair Rapozo: Right, and that is what happened. Okay. So that is fine. I think that is exactly what...oh, no. This one is to the unexpired term.

Councilmember Kualii: Which is four (4) years, not two (2) years.

Council Chair Rapozo: Yes. Basically what you are saying is keep it like the current one, to the next election? To me, that is fair.

Councilmember Kualii: Instead of for the remainder of the unexpired term, it will be until the next election.

Council Chair Rapozo: Until the next General Election, yes.

Councilmember Kualii: I am okay with that.

Councilmember Chock: It seems to me since we need five (5) votes to continue, we should go to the ones that are most in conflict. It sounds like this Section 2.02 on the Composition of seven (7) members.

Council Chair Rapozo: Oh.

Councilmember Chock: Well, I guess that is not the issue. The issue is eighth member or...can you repeat it?

Councilmember Kualii: No, it says "the mayor and six members."

Councilmember Chock: The Mayor and six (6) members? He is saying...

Councilmember Kualii: Seven (7).

Councilmember Chock: Seven (7) and a Mayor. Is that correct?

Councilmember Kualii: Well, the Mayor would not be on the Council.

Councilmember Hooser: Right. Number one, I think we need veto. Someone needs to be able to veto and that person would not sit on the Council since it does not make sense to me that if you have a seven (7) member Council and one (1) of the members had veto power. It does not make sense. I would think the Mayor would be an eighth person who would have veto power and then the Council would appoint its own Chair and run its own business. The eighth could participate in the discussions and maybe encouraged to be an ex-officio or whatever. I do not know. But I just think the veto power is important to preserve.

Council Chair Rapozo: So there shall be a Council of eight (8) members elected at-large?

Councilmember Hooser: Or seven (7) members and a Mayor.

Council Chair Rapozo: Well, we have the Mayor...oh, I see what you are saying. Okay.

Councilmember Hooser: Yes. I mean, the Mayor does not have to be a voting member of the Council. I think we are looking at models like that also out there, right, where the Mayor is ceremonial and veto power?

Councilmember Chock: It exists.

Councilmember Hooser: Yes.

Councilmember Chock: It is a small percentage, but it exists.

Councilmember Hooser: Okay.

Councilmember Chock: I think it is like two percent (2%) or something that has it that way.

Councilmember Hooser: Okay.

Council Chair Rapozo: So there shall be a Council consisting of eight (8) members, consisting of seven (7) members elected at-large and a Mayor elected separately at-large as well?

Councilmember Hooser: Well then that begs the question of tie votes and things like that I would think.

Council Chair Rapozo: Well, the Mayor would not have a vote.

Councilmember Hooser: Okay.

Council Chair Rapozo: The Mayor would not have a vote.

Councilmember Hooser: Is that model common?

Council Chair Rapozo: The Mayor would vote only in a...

Councilmember Chock: It is not common, but it exists.

Council Chair Rapozo: They vote only in ties.

Councilmember Chock: Yes.

Council Chair Rapozo: I have seen those. There are many that I have seen that the Mayor will only vote in case there is a tie.

Councilmember Chock: Yes.

Councilmember Kualii: But you were talking about veto power also.

Councilmember Hooser: A veto power is fairly common though I thought, right?

Councilmember Chock: No.

Councilmember Hooser: No?

Councilmember Chock: No.

Councilmember Kualii: Not in a Council-Manager form of government?

Councilmember Chock: No.

Council Chair Rapozo: Councilmember Yukimura.

Councilmember Yukimura: Two (2) things. If by merging the Mayor and the Council together, we are eliminating a check on the Council; what are the other checks that exist in a Council-Manager form of government on the Council? That is one (1) question. The other is I think it would be really unwise to have a person with the power of veto that is not involved in neither the Administration or the policy making otherwise because the thing that helps you develop a position is to be in the full on

discussion and debate, have to take a position, and really look at all of these positions. You have this kind of detached person that is not really involved and just comes in to veto or not veto. It feels really awkward to me.

Council Chair Rapozo: It is no different than if Bernard was to come here and participate in the discussions on a Wednesday. He would not have the right to vote, but he could participate. I mean, it would be the same. Let us say in the scenario we have today and we had a Mayor. Let us just say I was the Mayor. I could have the discussion, you folks all passed a bill, whatever it was, and I just said, "Hey, do you know what? I am going to veto." It is the same thing. The right to override the veto is the same.

Councilmember Yukimura: The difference is that the Mayor coming over here, the Mayor is responsible for a lot of things for how things go on. He is forced to really get involved with the issues by virtue of his position. But if he does not have that role and that involvement, whoever vetoes is going to be making it in a vacuum.

Council Chair Rapozo: Well, that is the fundamental change in this system though. That is the change. That is the switch. That is the biggest opposition that I am getting from the public that do not want this system. That is what it is. They do not want that power to sit here in the legislative body.

Councilmember Hooser: Right.

Council Chair Rapozo: They want the check and balance. It is a complete change. It is a paradigm flip. So that is what comes with it, Councilmember Yukimura, I guess is what I am trying to say.

Councilmember Hooser: Her first question is the more relevant one maybe. What checks are there to prevent four (4) members from running the show and nobody is in charge besides the Mayor?

Council Chair Rapozo: In fact, the testimony that I forwarded to you folks, I do not know if you read it from the person Hee, I think it was. Was it Hee? Anyway if you read his testimony, he called me and I do not know who else he spoke to. But that was his concern. He said he lives here on Kaua'i. He was born and raised here on Kaua'i, but he owns a second property up in Washington State and he said whatever County he was at had a corrupt Council, which transferred the corruption to the County Manager. Again, it is a change in structure. You have pros and you have cons. One (1) of the cons is you give up some of checks and balances when you go to a County Manager system because all of that activity now happens here and there is no "across the street." So that is the major difference. That is why you do the change because we are not happy with this system. We are not happy with that. Again, that is the risk. I remember the last time the Charter Review Commission made this argument I testified against it. I said, "How can you have the Council select the County Manager?" You totally give up all of the checks and balances. It is a fundamental change that is what the people have

to decide if they want to give up that check and balance because you are going to lose it in this system. Councilmember Yukimura.

Councilmember Yukimura: I think maybe...

Councilmember Kaneshiro: Just thinking off the top of my head and I do not know if this switches the whole thing going back to a Mayor system, but if you give the County Manager the ability to veto, he is the one on that side. But again, I do not know what the best practice is and what ICMA would say giving that person that ability and then the Council overriding it and telling them, "No, this is what we want."

Council Chair Rapozo: Yes.

Councilmember Kaneshiro: Again, I am just...

Council Chair Rapozo: That obviously would not work because that County Manager is appointed. For him to stand up, it is...

Councilmember Kualii: He would not do it.

Council Chair Rapozo: Yes, he would not do it. Councilmember Yukimura.

Councilmember Yukimura: Yes, it does not make sense if he is accountable to the Council.

Councilmember Kaneshiro: Yes.

Council Chair Rapozo: Right.

Councilmember Yukimura: He or she. The question was what are the other accountabilities or checks on the Council. One (1) of them is that it takes a super majority to pass their rules so that a simple majority cannot just run the show. That is one (1) of them. It is a very important protection. That is why we have closing debate because debate is a very big value in democratic decision-making. Closing debate requires a supermajority so that a simple majority cannot just run the show. Those are the kinds of checks. Another check is that the Council cannot have any other job and they have to be full-time Councilmembers so they are not subject to potential deals. I mean, there were insurance agents or people who have businesses and the people who come before them go and get their business. I mean, there are more chances for conflict of interest like they have Judges. Judges in our State cannot have another job. I guess per diem Judges are a little different. But the...

Council Chair Rapozo: I do not see the check and balance.

Councilmember Yukimura: Those are...

Council Chair Rapozo: That has absolutely...

Councilmember Yukimura: That is the check on corruption. Those are checks on corruption.

Council Chair Rapozo: That you cannot have another job? You do not think that somebody that does not have another job cannot be corrupt? I mean, the person coming to my...

Councilmember Yukimura: No, there are many other things like gifts.

Council Chair Rapozo: Okay.

Councilmember Yukimura: Gifts have really strong ethics laws, which are a check.

Council Chair Rapozo: Right. I think Councilmember Hooser is talking about checks and balances where you...

Councilmember Kualii: Three (3) branches of government.

Council Chair Rapozo: Yes.

Councilmember Yukimura: Well, if you limit yourself to certain kinds of checks, that is true. But if you want checks that prevent corruption, if the corruption is the issue if you want people to really focus on the good of the people, then what may seem like little things are really important checks on the decision-making process.

Council Chair Rapozo: I think, and correct me if I am wrong Councilmember Hooser, I think Councilmember Hooser is talking about the checks and balances where the Council passes a law that has no opportunity to be vetoed. In other words, that majority would send this County the direction and would have no opposition no matter what happens. I think that I what he is talking about, checks and balances. There has to be some person, some entity that can say, "Timeout. This is not right," and then have the discussion and override. I think that is what he is talking about. As far as ethics, that...

Councilmember Yukimura: No, that is...

Councilmember Hooser: No, that is what I am talking about. I mean, it goes to the budget. If I may, that is what I am talking about, and other ways, which cost more money would be a larger body. Nine (9) members would require more, but it would not provide the veto. I will give it some thought. We may not be able to reconcile it now. But I will think about how I might figure it out.

Council Chair Rapozo: I do not think the Mayor having the veto power is much of a departure from where we are at today. I mean, I think you still allow that

someone to have that ability to stop the train or at least slow it down and say, "Let us reconsider" and give the public an opportunity to come in and testify to say, "Yes, we do not want this." Whether it is the Mayor, I do not think it can be the County Manager. But I think that Mayor, again, you are removing this whole executive/legislative wall and you are bringing everybody on one (1) side. Yes, you are calling some of the activities executive actions. But whether he is the Mayor across the street or the Mayor on this side of the street, someone has to have that veto power and the electorate will determine who that person is.

Councilmember Hooser: If I may? I am going back to the eighth person ex-officio with veto power, who is invited to participate and sit at the table.

Councilmember Kualii: Required to participate.

Councilmember Hooser: Required to participate. Then again, the four (4) people pass something, the public gets outraged, the Mayor steps in or whatever, vetoes it, and then a super majority can still override it just like now.

Council Chair Rapozo: Yes.

Councilmember Hooser: I think that would make me more comfortable than what we have today.

Council Chair Rapozo: I think it would make the people more comfortable too.

Councilmember Hooser: Yes.

Council Chair Rapozo: It provides that level of checks and balances that at least you have the Mayor who is accountable to the people, not the Council.

Councilmember Yukimura: The veto power is not an absolute power as Councilmember Hooser just pointed out because a Mayor's veto can be overridden by a supermajority of the Council.

Council Chair Rapozo: Again, the way I try to put it when people ask "what does this do," for me, it is...

Councilmember Hooser: The same way it is now.

Council Chair Rapozo: Just pretend for the moment that our Mayor was here and he was elected by the people, but he was part of this body. Every discussion we had on Wednesday, he would be participating. He is still independent, but he would be participating in the discussions. He would not vote, but he would be participating. To me, that is the easiest way to share this with the people. At the point where the Mayor, who obviously has a different role. He is their spokesperson, he is the representative, or whatever you want to call it. When he runs, people are voting for

him because he will have that veto power. So it is no different than just plopping that side, put him here, and it is the same thing. We just have the extra person on the table. Councilmember Chock.

Councilmember Chock: Just to answer the question again, it is a low percentage that has this ability. However, I think that Council Chair and I met with one of the, I guess, popular districts that represents this. I think it was Illinois. They actually did have this...

Councilmember Yukimura: System.

Councilmember Chock: System where they had tiebreaker and veto power. Popular in the sense that they were very successful. They were one of the Counties that really changed how they did government and saved a lot of money in that and so forth. It is something that we maybe need to look a little bit further into. I can try and contact him for some of that background. The only other thing I would say is that the other separation is really between the Administration and policy.

Councilmember Yukimura: Right.

Councilmember Chock: There needs to be strong rules in place so that the Manager does have power to say when we are overstepping on the Administration's side. That needs to be strengthened, in my opinion, in terms of going as far as removing a Councilmember if necessary if that is overstepped in terms of roles and duty. That is why there is so much emphasis in what we learned on roles and duties for each of those.

Councilmember Yukimura: Yes. May I? I was reading the ethics provisions. The separation of power is now between the Manager and the Council, and the Council is the policy body. The Manager is the implementation administration operations. There are a lot of things about how Councilmembers speak to members of the Administration, how they get information from the Administration, and apparently some penalties for crossing the line. I wanted to say that if you have this eighth Mayor, does he or she have all of the powers of Councilmembers otherwise? Is he or she allowed to introduce bills? Do they have an office? They are going to have staff. They are going to be part of the Council. The only thing they do not have is the vote on the floor, which is exercised in the form of a veto. It would be interesting to see how it is actually set up in Illinois. Can they initiate bills?

Councilmember Chock: Okay. I do not know the answer.

Councilmember Hooser: The Mayor can initiate bills through the Council now.

Councilmember Yukimura: Right.

Council Chair Rapozo: Yes.

Councilmember Hooser: This person would be the Mayor?

Council Chair Rapozo: Yes.

Councilmember Hooser: And they would have an office just like we do?

Council Chair Rapozo: Yes.

Councilmember Yukimura: On this side?

Councilmember Hooser: Right. They would not vote, I imagine. They would request bills and that kind of thing.

Council Chair Rapozo: Again, it would be just like Bernard sitting here on Wednesdays. He would not be able to introduce a bill. He could have Councilmember Kualii introduce it by request and he could have all of the discussion, come up and testify from that seat, and he could even talk amongst us. Councilmember Chock.

Councilmember Chock: I think the difference is you...

Councilmember Yukimura: He is going to have a seat.

Councilmember Chock: ...would have the Mayor, in this instance, that would have the power only over policy decisions. So there would not be decisions made when we cannot come up with an agreement and has to veto or be the tiebreaker on, I guess, a different frame of mind in terms of making the decision, a policy decision not so much based on whether or not we can do it or not, I guess. Do you know what I mean?

Councilmember Yukimura: The policy decisions are going to be everything that comes before the Council for a vote.

Councilmember Chock: Right.

Council Chair Rapozo: Yes, and the Mayor has to sit there and bite his lower lip because...

Councilmember Yukimura: No, he can talk.

Council Chair Rapozo: But he cannot vote.

Councilmember Yukimura: Yes, but he can speak like another Councilmember.

Council Chair Rapozo: Yes. Again, it would be like if he was here. I mean, I do not know. If I was the Mayor I would probably be at more Council Meetings or I would have my Managing Director here every Wednesday not only when it involved

raises and General Excise Tax (GET). But I think I would have my Managing Director here at every single meeting if I was the Mayor in the current system.

Councilmember Chock: The only other thing that I heard in response to this kind of scenario that we are talking about from ICMA is it does open the door for a lot more contention at this table.

Councilmember Yukimura: What opens the door?

Councilmember Chock: Well, because you do not know what the makeup of the Council with every new term. So it can create a division just on the table here, which naturally will occur in every instance, but even more so. I am not sure if there are specific things that you can do in addition to make it successful. That is probably what we have to look at.

Councilmember Yukimura: Can I ask a question?

Council Chair Rapozo: Yes.

Councilmember Yukimura: You are saying having a Mayor around the table creates more contention?

Councilmember Chock: No, just the veto on tiebreaks.

Councilmember Yukimura: Oh, creates...

Councilmember Chock: You create a natural division, which is what you want.

Councilmember Yukimura: As a check?

Councilmember Chock: What I am saying is there is a flip side to that in terms of the dynamics of this table.

Councilmember Yukimura: I see.

Councilmember Chock: That needs to be taken into consideration.

Councilmember Kualii'i: I think because it has been said a couple of times now, that it should be veto only, not about tiebreaking. The Council has seven (7) members. If a member is absent and the vote is so important, then when the member gets back, the tie gets broken. I do not think this Council ever ends up in a tie unless that seventh seat is vacant. But I think the Mayor's power should focus solely on veto so a decision is made whether it is 4:3 or 5:2, and the Mayor, on behalf of the people, disagrees with that decision and vetoes it. So now the five (5) can override the veto.

Councilmember Yukimura: So the Mayor becomes a check on the majority of the Council?

Councilmember Kualii: Yes.

Council Chair Rapozo: Yes.

Councilmember Yukimura: Not a tiebreaker. That is a kind of big distinction.

Councilmember Chock: It is a difference. There is a big difference.

Councilmember Yukimura: It becomes a check on the simple majority.

Councilmember Hooser: And one would think that there would be less vetoes because the Mayor is at the table and people are aware of where the Mayor stands.

Council Chair Rapozo: Yes.

Councilmember Hooser: Afterwards the people could rise up or whatever and put pressure.

Council Chair Rapozo: Change one (1) member's vote.

Councilmember Hooser: Yes. I think there would be less vetoes and less contention, maybe in that regard. We do not have that many vetoes anyway.

Council Chair Rapozo: Yes. I mean, two (2). I think on my whole time on the Council, I think maybe two (2), three (3) maybe at the most. I think if the Mayor is part of the discussions on a weekly basis, he will know. Why would you go veto something that is a 7:0? 5:2? 4:3, maybe. At some point, you just have to concede and say, "This is not going to happen." Again, if there is an uprising and the Mayor will be able to talk to somebody that voted "no" and they said, "Yes. Do you know what? I will support the override." Then he will do it.

Councilmember Hooser: Related question to Sunshine Law with regards to the Mayor would be the same, I guess.

(Councilmember Yukimura was noted as not present.)

Council Chair Rapozo: Yes.

Councilmember Chock: Yes.

Councilmember Hooser: Because right now, the mayor can speak to the Department Heads.

Council Chair Rapozo: Well in that role though as a...

Councilmember Hooser: No.

Council Chair Rapozo: ...would be the Manager.

Councilmember Hooser: Right.

Council Chair Rapozo: So that Mayor's responsibility...

Councilmember Hooser: Still cannot give the Department Heads direction, right? Okay, got it.

Council Chair Rapozo: Yes.

Councilmember Kualii: I had another thought. Along the lines, I think it matters if the Mayor can initiate bills or not. I heard her kind of say "yes" but I heard you kind of say "no," that if he or she wanted to do a bill, she will get one (1) of the seven (7) of us to do it.

Council Chair Rapozo: Correct.

Councilmember Kualii: And he or she would not be able to introduce something themselves even though they cannot vote on it?

Council Chair Rapozo: Correct.

Councilmember Kualii: I kind of agree with that. But the Mayor, because the veto will be so rare, his or her involvement will not be the same as a fully engaged Councilmember who is putting bills forward and making the decisions, and because it is an eighth position now, that is more money. Every position you pay out is more money. That Mayor should have more responsibility. I think that a lot of the ceremonial things could be done by that Mayor. Obviously the veto is that check and balance that is done by that Mayor. But I think maybe also that Mayor could do things having to do with the community. Maybe like Administrator Furfaro's job now, which is to manage all of the community Boards and Commissions. Maybe that could be done by the Mayor and not really step on the toes of the County Manager. The citizen involvement involves the Council as well, right? We confirm all appointments to all Boards and Commissions. So there is that direct tie to the community. I would give that Mayor the job of running the Boards and Commissions or managing the Boards and Commissions.

Council Chair Rapozo: Would that not...

Councilmember Kualii: And that would save money too.

Council Chair Rapozo: But would the Mayor not be the Chair of the Council?

Councilmember Kualii: No, but we are talking about that eighth position. He is not the Chair anymore. He is sitting off on the side. He has veto power.

Council Chair Rapozo: Again, could he...

Councilmember Chock: He could.

Council Chair Rapozo: Could he be the Mayor, I guess is what I am saying. Could the Mayor be the Chair or the Presiding Officer?

Councilmember Kualii: The eighth person?

Council Chair Rapozo: Yes.

Councilmember Kualii: Oh no.

Council Chair Rapozo: Why?

Councilmember Kualii: No, because the seven (7) people are making the decisions and the Chair is one (1) of the seven (7), not the eighth person with the veto. You have to separate that power between the Mayor being the veto power and the Chair being the agenda and managing the seven (7) decision-making. Why have an eighth if the Mayor is the Chair? Then you do not need the eighth and you just let go of the veto power.

Councilmember Hooser: I tend to agree. Presiding over the meeting is a small part. Controlling the agenda and controlling how the information flows is a potentially very controlling position. Scheduling, you are going to hear it or not going to hear it even though you have heard everything. But that is all part of the rules, right, sitting on something, letting it go two (2) weeks, and...

Council Chair Rapozo: I have to exercise my power a little bit more, I think.

Councilmember Kualii: What power?

Councilmember Chock: Just to play devil's advocate on this, the community is going to say "Wow, this Mayor has no power." All they do is veto once in a while and they go to these...

Councilmember Kualii: Cushy job.

Councilmember Chock: Yes.

Councilmember Kualii: Parties.

Councilmember Chock: Parties and things.

Council Chair Rapozo: It is kind of what they say now.

Councilmember Hooser: I turned my microphone off.

Councilmember Chock: Anyways, I just wanted to bring it up.

Councilmember Kualii: Half their salary.

Council Chair Rapozo: Well, do you know what? Nothing says the Mayor has to be paid more than a Councilmember.

Councilmember Chock: Absolutely.

Councilmember Kualii: In this instance, it would not matter.

Council Chair Rapozo: Why would you pay him more if all he is going to be doing is going to go to parties? Really, and every so often drop a veto here and there just to...

Councilmember Chock: Roar.

Council Chair Rapozo: 0:5 at the end of the term. 0:5, but I vetoed five (5) damn bills and nothing happened. But that is a good question. What the hell is this Mayor going to do?

Councilmember Kualii: Boards and Commissions.

Council Chair Rapozo: Most places, the Mayor is the Chair.

Councilmember Chock: Yes.

Councilmember Kualii: That is why you only have seven (7).

Council Chair Rapozo: Yes. Again, I guess I cannot stress enough the change in the structure. With this system, you give up some and you gain some. The gain is working on the same side of the aisle so that when the Council agrees on something that needs to be done, it is going to get done. To me, that is heavily weighed for me.

Councilmember Chock: That is a big one.

Council Chair Rapozo: I like that benefit. But without the checks and balances, this place could go crazy. Can you imagine if you have a young new Council?

I mean, can you imagine? They pick the County Manager and all of sudden let us just rezone the crap out of this island and build resorts all along...that could happen because there are no checks and balances.

Councilmember Hooser: I think the practical reality of having something pass without a check on the Council is not going to happen. I mean, I think the perception and the realities of power grab. I do not know if I would vote for it because four (4) people are going to run the show.

Council Chair Rapozo: I can tell you after this discussion in the last ten (10) minutes, I do not think I would support it either without that checks and balances.

(Councilmember Yukimura was noted as present.)

Councilmember Kualii: We are looking at eight (8) and not seven (7)?

Councilmember Chock: I will research into that more.

Council Chair Rapozo: Okay.

Councilmember Hooser: Maybe we can pencil in the eight (8) or on the side or whatever.

Council Chair Rapozo: Yes. Eight (8) including one (1) Mayor. The Mayor has veto power, ceremonial.

Councilmember Hooser: And participation.

Council Chair Rapozo: Yes, and participation. Ex-officio, I guess is the proper term.

Councilmember Kualii: I want him to manage the Boards and Commissions too. That is a one hundred thousand dollar (\$100,000) position.

Council Chair Rapozo: Which we do not need.

Councilmember Kualii: Yes. So the Mayor can manage Boards and Commissions with the direction of the Council and the Managing Director.

Council Chair Rapozo: Okay. We are pretty comfortable with the Council and the Mayor?

Councilmember Kualii: Yes. Eight (8) persons.

Council Chair Rapozo: Eight (8) members on the Council.

Councilmember Kualii: Seven (7) voting Councilmembers...

Council Chair Rapozo: Plus the Mayor.

Councilmember Kualii: ...elected at-large. One (1) Mayor elected at-large, who is an ex-officio non-voting Councilmember with veto power only.

Council Chair Rapozo: Okay, and we are talking generally. We will refine it later. But does anyone have a problem with that?

Councilmember Hooser: No, and the majority selects the Chair.

Councilmember Kualii: Yes.

Council Chair Rapozo: Yes.

Councilmember Kualii: The seven (7).

Council Chair Rapozo: Yes. Okay.

Councilmember Yukimura: I think that while I was gone you said that there would be a Chair and a Mayor, two (2) different people?

Councilmember Kualii: Eight (8) on the Council.

Council Chair Rapozo: Yes. I suggested that the Mayor be the Chair, but after listening to Councilmember Kualii, I would agree that the Chair would have to be selected by the Council.

Mr. Morimoto: The Mayor would not be the Presiding Officer?

Council Chair Rapozo: No.

Mr. Morimoto: The Council would select the Presiding Officer or the Chair?

Council Chair Rapozo: Yes.

Mr. Morimoto: Okay. Thank you.

Councilmember Yukimura: And there would be a Deputy Mayor also?

Councilmember Kualii: No. It can just follow the Chair, the Vice Chair or whatever.

Councilmember Yukimura: So the Chair of the Council would act as a Deputy Mayor?

Council Chair Rapozo: I would suggest we use the same language in the current Charter for the vacancy in the Mayor.

Councilmember Yukimura: What is it? A Deputy?

Council Chair Rapozo: No, the current one where the Council would select.

Councilmember Yukimura: I am not disagreeing with that. I am just talking about who represents the Mayor in ceremonial and other duties if he is not available?

Councilmember Kualii: Just go down the line, the Council Chair, Vice Chair...

Councilmember Yukimura: You could make it the Chair of the Council?

Council Chair Rapozo: I think so. I mean, I do not know if the Chair would want to. You are giving up your voting right now.

Councilmember Yukimura: That is right. That would be a problem.

Council Chair Rapozo: Yes.

Councilmember Yukimura: Then you would choose a...

Council Chair Rapozo: Oh, my gosh. That means you would have to get a Deputy Mayor.

Councilmember Yukimura: No. The Vice Chair of the Council becomes a Deputy Mayor...

Council Chair Rapozo: No.

Councilmember Yukimura: ...but without veto power.

Council Chair Rapozo: I do not think that you could...

Councilmember Kualii: Wait, are we talking about ceremonial filling in or are we talking about veto filling in?

Council Chair Rapozo: No. Remember now, you are giving that person veto power.

Councilmember Yukimura: We are trying to reconcile both.

Councilmember Kualii: When there is a vacancy? Is there a vacancy?

Council Chair Rapozo: Yes.

Councilmember Kualii: Then fill the vacancy.

Councilmember Yukimura: If there is a vacancy of the Mayor right now, there is a Deputy Mayor. I keep wanting to say Vice Mayor, that takes the Mayor's place both in veto and in ceremonial, and then you are going to have a Chair of the Council and a Vice Chair of the Council?

Council Chair Rapozo: Yes. I guess what I am saying is the Council, the seven (7), you cannot take one (1) of them to make them the Mayor because that person was elected to be a Councilmember. What is going to happen is you have to designate someone else to become it.

Councilmember Chock: Yes.

Council Chair Rapozo: You cannot do a Vice Mayor because what the heck is that person going to do all day and every day?

Councilmember Yukimura: Right.

Council Chair Rapozo: So we have to find somebody whether it is the...

Councilmember Yukimura: The Managing Director.

Council Chair Rapozo: The Council would have to appoint someone in the interim.

Councilmember Kualii: Interim?

Council Chair Rapozo: Yes. In the interim, someone is going to have to fit in.

Councilmember Yukimura: Yes, but if it is just for a day or two (2)...

Council Chair Rapozo: Why would it be a day or two (2)? What if he dies?

Councilmember Kualii: There will be no vetoes.

Councilmember Yukimura: Well there is both cases; one where he is temporarily gone and there is a time where it is a long-term gone. They are both cases in which you have to have a substitute.

Councilmember Hooser: What happens now?

Councilmember Yukimura: The Managing Director is the second in command for the Mayor.

Councilmember Chock: This says, "The Council shall elect from among its members a deputy mayor who shall act as mayor during the absence or disability of the mayor and, if a vacancy occurs, shall become mayor for the remainder..."

Councilmember Yukimura: But that one does not have a Mayor that has a veto.

Councilmember Kualii: That was the seven (7) only with the Mayor as Chair.

Councilmember Yukimura: Yes.

Councilmember Chock: Right.

Councilmember Kualii: This is now eight (8) with a veto.

Councilmember Yukimura: We should find out from that Illinois group how they do it.

Council Chair Rapozo: I think the safest is to just have the Council elect or put somebody in.

Councilmember Kualii: Fill it.

Council Chair Rapozo: Yes.

Councilmember Kualii: Until the next election.

Council Chair Rapozo: Well, then you have to fill the Council seat.

Councilmember Yukimura: Yes, and if the Councilmember...

Councilmember Kualii: What if nobody wants it?

Councilmember Yukimura: If the Councilmember substitutes for the Mayor, do they get the veto power or what happens to the veto?

Council Chair Rapozo: They get the veto power, but they lose the voting power.

Councilmember Kualii: Day-to-day vote.

(Councilmember Kaneshiro was noted as not present.)

Council Chair Rapozo: You cannot give them the voting and the veto. So they are going to become the Mayor.

Councilmember Yukimura: Okay. Let us unfold that. If a Councilmember is chosen to be the Deputy Mayor and so the Council votes...and this is like the Mayor is gone for a week.

Council Chair Rapozo: Yes.

Councilmember Yukimura: Okay.

Councilmember Kualii: Let us just have no ceremonies and no vetoes for a week.

Council Chair Rapozo: No.

Councilmember Kualii: Well the ceremonies do not matter.

Council Chair Rapozo: There is going to have be an administrative staff.

Councilmember Yukimura: The Clerk.

Council Chair Rapozo: No. You are going to have to create a...

Councilmember Yukimura: No, the Clerk...

Council Chair Rapozo: The Mayor would have...

Councilmember Yukimura: Oh, the Clerk cannot be...

Councilmember Kualii: The Mayor has one (1) staff.

Council Chair Rapozo: I think you create an Administrative Assistant to the Mayor. I do not know.

Councilmember Yukimura: But if Illinois has it, they must have run into this question or these questions.

Councilmember Kualii: Yes. I see hands.

Council Chair Rapozo: I know, I see them. Just on the topic of this, come up.

Councilmember Kualii: Just on this.

Mr. Taylor: Council, Ken Taylor. Under Section 2.07, there should be another "G" section which would read "There shall be a Mayor pro tempore appointed by the Council from amongst themselves," and then the duties would be to fill in for the Mayor when absent. That takes care of that. As far as the questions about the veto power, if you really feel they are necessary, one of the options that a lot of communities use is that one, the Mayor does not vote except in a situation of a tie. He has the authority to veto, but a "no" vote in the case of a tie should be considered a veto also and then allow the Council to redeliberate the issue and decide whether they want to override it by a majority vote. They still have that option to do so. That is one (1) way that a lot of municipalities deal with it. But a lot of municipalities also give the Mayor and the Council a vote on every issue and there is no worries or concern about veto.

(Councilmember Kaneshiro was noted as present.)

Mr. Taylor: In this case, the question that comes up is how important is the veto to the voting public in pushing this forward. I think that has to be certainly in consideration. I do not see it as a big problem to deal with if it is one option or the other. Thank you.

Council Chair Rapozo: I did not see it as a big issue until today either. But I think as the selling point to this public, you would have to provide that assurance that the Council is not going to go rogue. That is just my opinion. The other thing is we could just appoint a Mayor. The Council could just appoint the new Mayor like we do for the Council now. Whoever is interested, they submit their resumes, and the Council selects the new Mayor.

Councilmember Kualii: You mean for the vacancy?

Council Chair Rapozo: For the vacancy for the duration. That happens in the State legislature. It happens in the County Councils. There is a gap that you are only running with six (6). So in this, same thing, right. You run, you get the resume, you get the applications, the Council meets, and they pick the new Mayor until the next election. To me, that is the simplest way. I mean, rather than creating a whole new position just for the sake of the absence. I think for the instances where the person is out for vacation when they take a couple of weeks off, I do not know. You just do not need him. The Mayor is going to have to have staff. Somebody will have to be the Acting Mayor, a Deputy Mayor that is appointed by the Mayor. So he gets to pick his staff or her staff. I keep saying "his," but it could be "hers." Peter.

Mr. Morimoto: What I can do is draft up several iterations for the Council to look at.

Council Chair Rapozo: Go ahead.

Councilmember Yukimura: We should also get from that Illinois community how their structure works. I mean, we do not know yet if it is eight (8) with the Mayor. You said it is a veto power? Councilmember Chock, it is a veto power?

Councilmember Chock: Yes. I think I met one (1) with veto and with tiebreaking.

Councilmember Yukimura: And their Mayors are elected?

Councilmember Chock: I cannot remember.

Councilmember Yukimura: Yes.

Councilmember Chock: Most likely.

Council Chair Rapozo: Anyone else? Glenn.

Mr. Mickens: Thank you, Council Chair Rapozo. For the record, Glenn Mickens. When this document was put together, what was it predicated on? "Powers and Duties of the Mayor. The mayor shall be a voting member of the council..." which means you are electing seven (7) people including the Mayor, not eight (8), but seven (7) by this document. Councilmember Hooser brought up the point about it and you have been discussing it.

(Councilmember Yukimura was noted as not present.)

Mr. Mickens: The Mayor having no voting power. What was this predicated on? Who put this thing together? You did, Peter? Well, then I guess Peter was presuming that you would have seven (7) members and the Mayor is going to probably be sitting there as the Chair, right, and a voting member?

(Councilmember Kualii was noted as not present.)

Council Chair Rapozo: Right.

Mr. Mickens: Like Ken was just saying, that would eliminate the veto would it not because you folks are all as a body now not going to the Administration as a body? You are telling the County Manager to do a certain job. He either does the job or you can fire him.

Council Chair Rapozo: Right. But what happens if the four (4) Councilmembers and the County Manager go rogue?

Mr. Mickens: But the County Manager is not a voting member.

Council Chair Rapozo: I understand. But he is going to implement what the four (4) Councilmembers dictate.

Mr. Mickens: Right, whatever you want to do.

Council Chair Rapozo: What if that four (4) decide on something that the public does not want?

Mr. Mickens: Well, you do that quite often. You do not involve the public. They are not voting on whether you pass a bill, or an ordinance, or a resolution.

Council Chair Rapozo: No. But right now, you have the Mayor that can block action from the Council.

Mr. Mickens: Right, and if he is sitting here, he will not be doing that.

Council Chair Rapozo: Why not? But the thing is that the absence of that, and I think that is what Councilmember Hooser is saying. If we are going to sell this to the community, one of the biggest concerns that we are hearing, or I am hearing and I am assuming everybody because they all send it to all of the Councilmembers, is that they do not want to give that sole power, all the authority, to this body, one (1) body without any checks and balances.

Mr. Mickens: But with the Mayor sitting here now, he is part of the body.

(Councilmember Kualii was noted as present.)

Mr. Mickens: He is not over there doing, and like you heard Larry Arruda tell you. Things go on over there. The public cannot go over there and find out what is going on. We do not know what is going on. Everything we have to address is here before you people, right?

Council Chair Rapozo: Yes.

Mr. Mickens: You give us the privilege of being able to do that.

Council Chair Rapozo: Yes.

Mr. Mickens: We do not even know what is going on over there. They come up to hire two (2) or three (3) people someplace, take money that you allocate for them for a certain thing. They take it and use it for anything they want. But with the Mayor now sitting here, that is going to be eliminated.

Council Chair Rapozo: Yes.

Mr. Mickens: The finger pointing stops.

Council Chair Rapozo: What is going to be eliminated is the ability for the public to get to someone to stop the action that the Council may have taken for whatever reason. Right now, the Mayor does. Whether you agree with what he does or not, he has that ability to veto and give the public an opportunity to come and convince Councilmembers that hey, this bill should not go forward.

Mr. Mickens: Right.

Council Chair Rapozo: Without that, you get four (4) rogue members, and there is no opportunity. Zero, because the Mayor can sit on this table and say all he wants, but the majority will dictate with no opportunity for the checks and balances.

Mr. Mickens: Right, but the Mayor now being one of you folks, he is going to have a vote.

Council Chair Rapozo: He is not going to have a vote.

Mr. Mickens: One-seventh (1/7) of the vote.

Council Chair Rapozo: He is not going to have a vote.

Mr. Mickens: That is what it says right here. "The mayor shall be a voting member of the council."

Council Chair Rapozo: And that has just changed.

Mr. Mickens: So why would he not have a vote then?

Council Chair Rapozo: No, that has just changed to eight (8) with seven (7) members on the Council.

Mr. Mickens: Oh, okay. So you are changing the document then and you are going to have seven (7) members on the Council elected and the Mayor separately voted so you are going to have eight (8) members now?

Council Chair Rapozo: Yes.

Mr. Mickens: Do you think that is a better system, a better checks and balances to eliminate the finger pointing than it is now?

Council Chair Rapozo: Oh, yes.

Mr. Mickens: Then having the Mayor sit here and be one of the members that is going to tell that County Manager what they want done?

Council Chair Rapozo: Yes, that is going to still exist. I mean, I think that is the fundamental change of this system. But I think what the Councilmembers are hearing from the public is they want that checks and balances to remain and without some person without veto power, that goes away. There is none.

Mr. Mickens: Well when you put this document together, I am confused again. When you put the document together, Peter evidently understood from something the public or you members that you wanted to have the Mayor as...

Council Chair Rapozo: Yes, that is what we wanted at the last workshop.

Mr. Mickens: Pardon?

Council Chair Rapozo: That was what had talked about at the last workshop.

Mr. Mickens: Right.

Council Chair Rapozo: Councilmember Hooser brought up a suggestion today, which everyone agreed. This is a working document.

Mr. Mickens: Right.

Council Chair Rapozo: So as we go through this, you are going to see a lot changes. You are going to see a lot of things happen.

Mr. Mickens: Right. If I understand this, it is not a simple thing.

Council Chair Rapozo: No. I will tell you right now, you put it at seven (7), this thing does not pass. That is what this workshop is all about, is getting consensus from the members so we can get a document that has a chance of passing.

Mr. Mickens: Then when Peter put this together, how did he get that...

Council Chair Rapozo: From the last workshop.

Mr. Mickens: At the last workshop?

Council Chair Rapozo: The last workshop...

Mr. Mickens: Then at the last workshop we decided the Mayor was going to be a voting member, how did it change now?

Council Chair Rapozo: Were you listening? We just went through that whole dialogue.

Councilmember Hooser: I raised some concerns and we had a conversation.

Mr. Mickens: Oh, okay.

Council Chair Rapozo: We just had that for the last forty-five (45) minutes.

Mr. Mickens: Right. Well, I heard Councilmember Hooser introduce that and you were discussing it. So that means that this could obviously change then?

Council Chair Rapozo: Anything can change.

Councilmember Chock: Absolutely.

Mr. Mickens: Right. But this document then is not written in stone?

Council Chair Rapozo: Like I said earlier and I was trying to explain to Councilmember Yukimura and Councilmember Kuali'i, this is not a proposal. This is a working document.

Mr. Mickens: Okay.

Council Chair Rapozo: That is why it says "draft." It is a working document to give us a starting point so we can address these issues piece by piece.

Mr. Mickens: Right.

Council Chair Rapozo: At the end of the day, not today, but at the end of one day, hopefully we will have consensus in the major components of this thing where a proposal for a resolution can be made.

Mr. Mickens: Yes.

Council Chair Rapozo: And that will come posted on the regular agenda where the discussion and public hearings will take place. That is why when you are working with seven (7) Councilmembers or six (6) and we need five (5) votes to get this put on the ballot, I am beginning to think Councilmember Yukimura was correct.

We may not be able to do it in time. I was very optimistic. Look at it. We are only on page 3 and it has taken us half a day.

Mr. Mickens: Well like you are saying, you are going through the nuts and bolts of this thing. I do not know. You might take a year to go through each one of these issues.

Council Chair Rapozo: Do you have a better suggestion, Glenn?

Mr. Mickens: Well, I think Councilmember Yukimura...

Council Chair Rapozo: Just put what you folks want and let us vote on it? Seriously. I am not trying to be funny.

Mr. Mickens: No, I understand.

Council Chair Rapozo: Do you have a better way?

Mr. Mickens: Well...

Council Chair Rapozo: Because I could do a proposal. I could just submit this, do a resolution, move to approve, and second for discussion.

Mr. Mickens: I think Councilmember Chock kind of overcame one of the things when he said the ICMA, sixty-three percent (63%) of what we are talking about the districting now. That was going to be a big talking point with the CRC, right, districting? But he said it and Jay sat there and said thirty-eight percent (38%), I think he said, of the CRC said they want to leave it the same. I do not really think that the districting, which would eliminate one (1) big problem if they are going to pass that districting thing okay.

Council Chair Rapozo: Yes.

Mr. Mickens: So I do not think that will happen. But I just had hoped that you would not have to get into completely the nuts and bolts. You have gone over these changes, you had Walter Lewis go over the thing, lawyer, and change the different things on it. He was addressing the issues and everything on it, which you folks...

Council Chair Rapozo: Glenn, I know. If only I had to vote on this, it would be done.

Mr. Mickens: Right.

Council Chair Rapozo: Do you know?

Mr. Mickens: Yes.

Council Chair Rapozo: But we have to get five (5) votes on this Council.

Mr. Mickens: Right.

Council Chair Rapozo: Councilmember Kagawa is not supporting it.
Councilmember Kaneshiro is not supporting it.

Mr. Mickens: Right.

Council Chair Rapozo: So that means...

Mr. Mickens: That leaves you five (5) then.

Council Chair Rapozo: ...the unanimous has to be five (5) of us.

Mr. Mickens: Right.

Council Chair Rapozo: And we have Councilmember Yukimura.

Mr. Mickens: Yes. She is not there.

Council Chair Rapozo: I am just being real. Again, I am not ready to
throw in the towel because we cannot even get through simple things.

Mr. Mickens: Right.

Council Chair Rapozo: But that is just Council and the Mayor.

Mr. Mickens: Right.

Council Chair Rapozo: We did not get to Commissions yet. The
workshop was exactly what this is for. We have to come up with a proposal that has a
chance of passing.

Mr. Mickens: Right.

Council Chair Rapozo: I do not want to do this exercise in futility.

Mr. Mickens: Right.

Council Chair Rapozo: I do not want to do it, and who knows what the
County Attorney comes back with. I would be mighty upset if we come back and we
cannot even do what we are trying to do.

Mr. Mickens: Right. Well, I know your job is hard. I think
for the betterment of the people...

Council Chair Rapozo: Well, I think my job is easy.

Mr. Mickens: Unless it gets put on the ballot for the people to vote on, I think you are never going to know. I think that is a big thing.

Council Chair Rapozo: Yes.

Mr. Mickens: Like you said, five (5) members unless you can change my friend Councilmember Kaneshiro's.

Council Chair Rapozo: That is your job. You folks have to go bombard him. Call him up. E-mail him. Okay.

Councilmember Kaneshiro: I will give you the wrong phone number.

Council Chair Rapozo: We go the Mayor and the Council.

Councilmember Kualii: What is the next big one?

Council Chair Rapozo: Ken, do you have something else to add?

Mr. Taylor: One (1) more.

(Councilmember Yukimura was noted as present.)

Mr. Taylor: One of the other discussion items was about the staff office and staff itself. The community I came from, Santa Barbara with ninety thousand plus (90,000+) people, everybody had a small office. They were not full-time. Your workload changes tremendously under this type of government. When you need information, it goes through the chain to the Manager, the Manager directs it to the Department Heads, and the Department develops the information and brings it back to whoever asked for it. The structure is different and the whole activity is different. Your whole job is looking at what the future is to be for the community and setting the policy. You are not getting into a lot of...well, there will be controversial issues like yesterday's Coco Palms thing. But those things will be very different, same with the salaries, the quarter percent (0.25%) sales tax, and all of that. The Manager is going to be bringing the information to you, putting it on your table, and you are going to make a decision. It is really hard to visualize the difference. I have seen the two (2) and I know the difference. But it is hard for me to explain it completely. But your jobs will be so different and so much easier. Good decisions and good deliberations will be. But the whole quality of the government structure is on your backs for doing the right thing and a good job in looking into the details. But when you have a question and you ask the Manager for more information, he brings it forth. If you are not satisfied with it, you ask for more. But you do not have two (2) different organizations doing a lot of duplication.

Councilmember Yukimura: Yes.

Mr. Taylor: As you move forward, I think you must remember that one of the most dangerous phrases in the English language is "we have always done it that way" because it changes.

Council Chair Rapozo: Councilmember Yukimura.

Councilmember Yukimura: I would like to ask Ken a question.

Council Chair Rapozo: Go ahead.

Councilmember Yukimura: Ken, do you feel that there were better decision-making and better results in the Santa Barbara case?

Mr. Taylor: Yes.

Councilmember Yukimura: Okay.

Mr. Taylor: It was not just Santa Barbara. The County government had a management style of government and the seven (7) Cities within the County all had it.

Councilmember Yukimura: Okay. Mr. Hee, the person who sent in testimony, one of his concerns was a greater cost of government from Council-Manager. Councilmember Chock was saying that in Illinois, they experienced a decrease in cost of government.

Councilmember Chock: I mean, I think the standing things for me was the population that they were serving and it was just the variable that I was looking at, and the amount of employees that they had.

Councilmember Yukimura: Okay.

Councilmember Chock: Which was about the same as here, but they had about a six hundred thousand (600,000) population. That does not take into consideration a lot of the other variables. So there were cost-savings in Administration, apparently, is what it seems like.

Councilmember Yukimura: So presumably some elimination of duplication or overlap maybe?

Councilmember Chock: Yes.

Councilmember Yukimura: I mean, as Ken is saying we are on both sides of the fence. We are trying to get information and things like that. The thing that we have to watch is if they were really compact like Davis, California on ten (10) square miles versus us on five hundred fifty-five (555) square miles and Davis needing two (2) fire stations and we needing eight (8). We are servicing a very spread out population.

One of the planning directives is that we become more compact and more centralized. But six hundred thousand (600,000) is a big number. So if operating costs were the same as ours, that is quite...

Councilmember Chock: No, employee numbers.

Councilmember Yukimura: Employee numbers were the same as ours. But that would translate to cost too.

Councilmember Chock: Absolutely.

Councilmember Yukimura: I am assuming.

Mr. Taylor: I think also...

Councilmember Yukimura: And tax based too.

Mr. Taylor: In a lot of cases you have a Manager and an Assistant Manager. The Assistant Manager often times is Department Head for two (2) or three (3) of the smaller Departments.

Councilmember Yukimura: Yes.

Mr. Taylor: When you start looking at how that can function, there is savings. In the end, any money that is freed up is usable and expansion of services or what have you. But it is a very flexible system and you can do a lot of things. I personally experienced this looking at the work the Director of Economic Development does, what Jay does, and a couple of other Departments. They could all be handled by one (1) individual along with other duties.

Councilmember Yukimura: Thank you.

Council Chair Rapozo: Again...

Councilmember Chock: Yes, let us get on.

Councilmember Yukimura: I do want to say I have seen Cities where planning and community development are together, and that has some plusses.

Council Chair Rapozo: That is one of the advantages of bringing some experienced leadership here. Next we are going to do the vacancy in the Council. In Article V, Section 5.02. Organization, it specifically spells out the process. "...within six (6) months after the effective date of the charter, the county manager shall recommend and the council shall by ordinance adopt an administrative code providing for a complete plan of administrative organization of the executive agencies of the county government consistent with the provisions of this charter."

Councilmember Yukimura: I am sorry. What are you...

Council Chair Rapozo: I am just reading that just because it clarifies what you folks are taking about. Section 5.02 on page 11.

Councilmember Yukimura: Okay. Thank you.

Council Chair Rapozo: It just says within six (6) months this County Manager along with the Council is going to basically dictate the structure of government, which agencies can be combined. That is where this County is going to see the cost-savings not only in that Mayor's Office, which will be transferred to this side which you are not going to need all of those Public Information Officers (PIOs), all of those Administrative Assistants, all of these Protocol Officers, and all of these things. We are going to experience cost-savings there. But the bigger savings, and I am not talking about the savings in efficiencies. I am just talking about the hard savings will come when you start putting those Departments together when you are not paying these people one hundred thousand dollars (\$100,000) and their duties are this much. You could be actually expanding the duties. I tried to explain that yesterday, consolidating, but they do not get it. But that is what the County Manager now, hopefully with their experience, will be able to come in and say like Councilmember Yukimura just said, "Planning and community development, that is one (1) Department." We will have six (6) months to put that together. Anyway, I just wanted to bring that up.

The vacancy in the Council because we have already addressed the vacancy in...where was that Councilmember Kualii?

Councilmember Kualii: Page 2, Section 2.05. The primary consideration is that after there is a vacancy on the Council, the six (6) remaining appoints that seventh person.

Council Chair Rapozo: Right.

Councilmember Kualii: But if there is a 3:3 tie, currently it is the Mayor.

Council Chair Rapozo: Yes.

Councilmember Kualii: So would it also be the new Mayor, that eighth person Mayor?

Council Chair Rapozo: I would say that.

Councilmember Kualii: I am okay with that.

Council Chair Rapozo: Again, that would not be much of a change. I think you could leave it the way it is.

Councilmember Kualii: Okay. So everybody good with that?

Councilmember Chock: Yes.

Council Chair Rapozo: One would assume that the Mayor would be on one (1) side of the 3:3.

Councilmember Kualii: Yes.

Council Chair Rapozo: The three (3) people that he is on the side with would probably get the appointment. Do you know what I am saying? If you folks picked John Doe, you picked Jane Doe, tie-tie, and if I am on your side, John Doe gets it. If I am on your side, Jane Doe gets it. That is kind of what I envision happening. I do not see the Mayor, and I do not know. Again, it is all hypothetical and speculative.

Councilmember Kualii: It is all personality.

Councilmember Yukimura: But it is not going to be tied because it is seven (7) Councilmembers.

Councilmember Kualii: No, the vacancy.

Councilmember Yukimura: Oh, there is a vacancy?

Council Chair Rapozo: We would have a vacancy so you would only have six (6).

Councilmember Yukimura: Okay.

Councilmember Kualii: But it is fine.

Council Chair Rapozo: Okay.

Councilmember Kualii: It has to be appointed somehow in a tie. What else?

Council Chair Rapozo: If you have a really crazy Mayor, then I am assuming one (1) of you would...yes.

Councilmember Kualii: A whole new person.

Council Chair Rapozo: He might pick Glenn Mickens as the Councilmember. We will find somebody else, Glenn. Glenn, you are a good sport. Okay.

Councilmember Kualii: Section 2.08. Mayor on page 3, would need to change if there was an eighth member Council.

Council Chair Rapozo: Yes.

Councilmember Kualii: Assuming we agree on Section 2.02 or some form of that with the eighth person, then there are probably other places in here that would have to fit that because the Mayor is then a non-voting member with veto power only.

Council Chair Rapozo: Okay. He "shall attend meetings of the Council and represent the County in intergovernmental relationships, appoint with the advice and consent of the council and the members of the citizen advisory boards and commissions, present an annual state of the county message, appoint the members and officers of council committees," see all of these are going to have to be relooked at because you are going to have a Council Chair now. Assign agenda items, all of that becomes the duties of the Chair, not the Mayor.

Councilmember Kualii: Yes.

Council Chair Rapozo: "The mayor shall be recognized as heard of the county government for all ceremonial proposes and by the governor for the purposes of military law but shall have no administrative duties."

Councilmember Kualii: I would like him to have that administrative duty if heading up the Boards and Commissions.

Council Chair Rapozo: So the way it is written is fine as far as the Boards and Commissions are concerned?

Councilmember Kualii: Well, I mean it just has to be adapted to fit Section 2.02.

Councilmember Yukimura: When you look at the function of Boards and Commissions like the Planning Commission and the Water Boards, they are mainly administrative functions. They are permitting according to policy set. To put them on the side of the Council may not fully work. Now, there may be some that are not that administrative like I am not really clear what the Fire Commission does. They do not do any permitting per se. So that is something. The Planning Commission is very administrative and the Water Board is very administrative indeed. They are the manager right now, under the Charter. It would seem to be quite inconsistent to put them under a Council, someone that is on the policy side, rather than the administrative side.

Council Chair Rapozo: I thought we had decided that the County Manager was going to...

Councilmember Yukimura: Yes, I think we did in our discussions.

Council Chair Rapozo: Yes, that is what I thought.

Mr. Trask: Mauna Kea Trask, County Attorney, for the record. They also provide quasi-judicial functions too. You have certain Commissions that actually render decisions. I mean, your Board of Ethics, Board of Appeals, Planning, and even Police Commission fields and heard complaints by members of the public against officers within the Department. These kinds of things you are going to want to keep. Civil Service Commission does quasi-judicial functions too.

Councilmember Yukimura: They have to be administrative.

Mr. Trask: The policy or administrative, yes, and setting of that. (Inaudible) political.

Councilmember Kualii: My question then is based on the differences, right, all of these Commissions do very different things and their operations, some are very involved and some are less involved. The Planning Commission obviously is part of Planning, so it is part of administrative. Currently, what is the Planning Commission doing under Boards and Commissions? How does Mr. Furfaro manage the Planning Commission? He does not?

Council Chair Rapozo: He is not supposed to.

Councilmember Kualii: Yes. I am not saying that should happen in this Mayor. I am just saying in the ones that are primarily about citizenry, engaging the public, and bringing the public in to participate, not necessarily with the same role as like the Planning Commission or some other commission that is acting kind of more like a miniature Council, if you will, because they have all of this decision-making, but those other Commissions. Maybe it will be just for the new Council Manager to decide and streamline it with the Departments that they align to. But there are some that do not align to any Departments.

Mr. Trask: On that point, currently Boards and Commissions really is like a support staff sort of agency. The Director is supposed to act as a liaison, get them information, and just is supposed to be staff assistance type.

Councilmember Yukimura: That is why it probably should be a Civil Service position and probably not a Department Head level. It would be just a...

Council Chair Rapozo: Yes, I agree.

Councilmember Yukimura: I do not know how that interfaces with the Charter provision that created the Boards and Commissions. It is definitely needed. The functioning of the Boards and Commissions has been better since it was created and they have been making more timely appointments. There used to be long vacancies and holdovers because they would take so much time to appoint. It needed some focus.

Council Chair Rapozo: Not one hundred thousand dollars (\$100,000) worth.

Councilmember Yukimura: Probably not. I am thinking it might be better for the Managing Director to appoint and the Council to confirm.

Council Chair Rapozo: You are talking about the County Manager?

Councilmember Yukimura: Yes. Sorry. County Manager to appoint and the Council to confirm. I think that is what we talked about.

Council Chair Rapozo: I thought that. I do not know. I could be wrong.

Councilmember Yukimura: But this whole section on Mayor is really awkward. One, the Mayor is not going to be the voting member of the Council, right?

Council Chair Rapozo: Yes. We have to redo that. We just talked about that.

Councilmember Yukimura: Okay, and even representing the County in intergovernmental relations.

Council Chair Rapozo: No. I think that should stay. I think that person should be it.

Councilmember Yukimura: The Mayor should be the representative?

Council Chair Rapozo: Yes.

Councilmember Yukimura: I like that too. Then "appoint with the advice and consent of the council the members of the citizen advisory boards and commissions," that, I think, we are giving to the Administration although it will be with advice and consent of the Council, and whether it is advice and consent is something else. Right now, it is just consent/confirmation. "Present an annual state of the county message," I think that probably should be the Managing Director. I do not know. "Appoint members and officers of council committees," that is...

Council Chair Rapozo: That would probably go out.

Councilmember Yukimura: Yes.

Council Chair Rapozo: That would be the Chair.

Councilmember Yukimura: Well, that would be the Council organizing itself.

Council Chair Rapozo: Correct. Again remember, this was written when the Mayor was going to be a part of the Council.

Councilmember Kuali'i: The Mayor was the Chair.

Councilmember Yukimura: Right. So we are going to let staff just handle this or do we go over it?

Council Chair Rapozo: No.

Councilmember Kualii: Peter can do it.

Council Chair Rapozo: Where is Peter? Oh, you got it? Okay. "Assign agenda items to committees subject to the consent of the council," is going to be the Chair's function. It will not be the Mayor.

Councilmember Yukimura: Right.

Council Chair Rapozo: "And perform other duties as specified by the council," I think that is fine. The Council wants the Mayor to do something, he will do it. "The mayor shall be recognized as head of the county government for all ceremonial purposes..."

Councilmember Yukimura: Oh, for ceremonial purposes.

Council Chair Rapozo: Yes, you got nervous huh?

Councilmember Yukimura: Yes.

Council Chair Rapozo: "...and by the governor for purposes of military law but shall have no administrative duties."

Councilmember Yukimura: Now that is going to require a Hawai'i Revised Statutes (HRS) change.

Council Chair Rapozo: No. I think that is already in HRS. I think that is why it is...

Councilmember Yukimura: Yes, but the Mayor is not going to be the Head of Civil Defense in time of emergency now, which it is under the present system. But the Managing Director who is going to oversee Civil Defense if the more logical one. That may take a HRS change.

Council Chair Rapozo: Oh, okay. But until that happens, we have to comply with HRS.

Councilmember Yukimura: Well, it is not going to be functional to have a Mayor, who is not involved with the Administration, in time of emergency to direct Department Heads and Civil Defense. It is not going to work. So we have to make a change. That is what I said. We may have to go get HRS changes before we can fully implement this.

Council Chair Rapozo: No. But I think HRS allows the Mayor to designate.

Councilmember Yukimura: Okay. If so, let us find out and let us require it in the Charter that the Mayor designates.

Council Chair Rapozo: No, you cannot require. To me, I would cite the HRS statute in the Charter so if HRS changes, you do not need to change the Charter.

Councilmember Yukimura: But you are going to create a potential of two (2) Mayors in the County and potential conflict in time of...chain of command during disasters and military needs to be really clear before the disaster or the event happens.

Council Chair Rapozo: Again, the County Manager in conjunction with the Council is going to create those policies and those plans.

Councilmember Yukimura: So you will have a lawsuit to determine...I mean, if we do not reconcile it. Maybe it will work to just have some agreements. But we need to look at that closely because you do not want to be caught with a crisis and everything undefined.

Council Chair Rapozo: Okay. Section 2.08(a), let us take a look at that. Annual budget. "The council shall enact an annual budget ordinance, which shall include both the operational and capital expenditures for the fiscal year and the method of financing the same. The council shall provide sufficient revenues to ensure a balanced budget."

Councilmember Yukimura: Where are you looking?

Councilmember Kualii: Section 2.10.

Council Chair Rapozo: I am just going down from Section 2.08 just skimming through.

Councilmember Yukimura: Oh, okay.

Council Chair Rapozo: It has not changed. I mean, again this now, the Council will be the one proposing the budget.

Councilmember Yukimura: The Manager will be proposing the budget.

Council Chair Rapozo: No, the Council.

Councilmember Chock: Presenting to the Council.

Councilmember Yukimura: Right. We will pass the budget?

Council Chair Rapozo: Right.

Councilmember Yukimura: But the amassing of the budget and the presentation of the budget for action is going to be now from the County Manager.

Council Chair Rapozo: Yes. He is going to do again, he is going to be doing what he Mayor does. All of the Department Heads will report to him or her, he is going to through the budget, they are going to come up with a budget that they will submit, and then the Council will do pretty much the same thing. Audit will not change. Ordinances will be the same.

Councilmember Yukimura: So this Adoption of a Pay Plan is contrary to the section about the Salary Commission, I believe, and has to be reconciled, and you do not want the Council to set executive salaries because they will always set it much lower than it should be. So that whole section has to be...

Councilmember Kualii: Or they will try, some of them.

Councilmember Yukimura: If all officers and employees who are exempt from Civil Service, that means they excluded people too.

(Councilmember Kualii was noted as not present.)

JENELLE AGAS, Legislative Assistant: This is from the current Charter.

Councilmember Yukimura: Oh really?

Ms. Agas: Yes.

Council Chair Rapozo: It is the budget. It is basically that we have to make those funds available. That is all this does.

Councilmember Yukimura: Okay. Yes, Article XXVIII is the Salary Commission?

Council Chair Rapozo: Yes. It just says we have to.

Councilmember Yukimura: Okay.

Council Chair Rapozo: That is all. I think another one that is...

Councilmember Yukimura: Can we have somebody just check that out?

Ms. Agas: Which part?

Councilmember Yukimura: If we were to adopt it, how this part would work with the Manager form of government.

Ms. Agas: So changing the current Charter?

Councilmember Yukimura: Well, the Salary Commission...is that in here, Article XXVIII?

(Councilmember Kualii was noted as present.)

Councilmember Yukimura: This is tedious work, as you can tell.

Councilmember Chock: This might be outside of the scope.

Councilmember Yukimura: It is Salary Commission.

Councilmember Kaneshiro: I feel like it would be the same thing that happens right now. The Salary Commission is in place, they provide the salaries, it comes to us, we vote it up or down, and it is done. The Mayor is not involved. Nobody else is involved. It is the same thing.

Councilmember Yukimura: Well, I think you want to check with ICMA because it says, "This Resolution shall take effect without the County Manager's or the Council's concurrence." I think in the County Manager form of government, the County Manager is quite active in setting salaries. So we need to check that.

Ms. Agas: Okay.

Councilmember Yukimura: Although the County Manager salary is going to be part of that. So maybe it is right that the County Manager does not have any say. But anyway, I do not think we should assume anything here. We should check it out.

Council Chair Rapozo: I think the Investigation will not change.

Councilmember Yukimura: The power of investigating?

Council Chair Rapozo: Yes. Then "Restrictions on County Council and Council Members. The council and its members shall not interfere with the administrative processes delegated to the county manager. Except for the purpose of investigative inquiries under Section 2.17 the council or its members, in dealing with county employees, or with county officers who are subjected to the direction and supervision of the county manager, shall deal solely through the county manager, and neither the council nor its members shall give orders to..." we talked about that earlier. That is that separation that the County Manager will have that. So we deal with the County Manager and not the Departments. I think that is the separation.

Councilmember Yukimura: Is that in there?

Council Chair Rapozo: That is page 7, Section 2.18.

Councilmember Kualii: Section 2.18.

Council Chair Rapozo: "Any willful violation of the provisions of this section by a member of the council shall be sufficient grounds for an action for his removal from office." It is very strict. You do not get involved with it. You set the policy and Managers put it in place. If they do not implement, then you fire the Manager. You do not go bother the Department Heads. I think that is critical.

Councilmember Yukimura: Yes.

Council Chair Rapozo: Very critical.

Councilmember Yukimura: Is that the wording that is our Charter right now with the substitution of County Manager for Mayor?

Council Chair Rapozo: This is my plan. We are posted until 2:30 p.m. What?

Councilmember Yukimura: 2:00 p.m.

Council Chair Rapozo: Until 2:00 p.m.? Okay. So we technically have to take a lunch break at 12:30 p.m. unfortunately, which we would come back at 1:30 p.m., which would give us a half an hour. I am suggesting we just go straight until 1:00 p.m. and that would be it.

Councilmember Kualii: I have to leave.

Councilmember Yukimura: I had an appointment at 12:30 p.m.

Council Chair Rapozo: Oh, you did? Well, it is 12:35 p.m.

Councilmember Hooser: Yes. My appointment is also at 12:30 p.m.

Council Chair Rapozo: Okay.

Councilmember Kualii: Lunch.

Councilmember Hooser: I could take a shorter lunch. I can come back earlier.

Council Chair Rapozo: We are only posted until 2:00 p.m. so we have to get out of here by 2:00 p.m. Can we be back at 1:15 p.m.?

Councilmember Hooser: Yes, I can.

Council Chair Rapozo: Break until 1:15 p.m.

There being no objections, the meeting recessed at 12:33 p.m.

The meeting reconvened at 1:20 p.m., and proceeded as follows:

(Councilmembers Kaneshiro and Kualii were noted as not present.)

Council Chair Rapozo: We do have a quorum. We have forty (40) minutes.

(Councilmember Kualii was noted as present.)

Council Chair Rapozo: Where do you want to go from here? I think the discussion on the Commissions is going to be a detailed Commission. Let me do this, let me take the next ten (10) minutes or so...is there anybody wishing to testify? We will take care of the public testimony now and then we are going to go right through to 2:00 p.m. We have to end at 2:00 p.m. because are posted until 2:00 p.m. So we cannot go beyond that. Is there any other testimony before we close it?

Mr. Taylor: On what item?

Council Chair Rapozo: Whatever you want.

Mr. Taylor: Any item?

Council Chair Rapozo: Any item because we are going to...

Councilmember Yukimura: You do not have to.

Council Chair Rapozo: Yes. You do not have to. Really, I want it to be an interactive workshop. But I do want to leave some time for us to deliberate a little bit before 2:00 p.m.

Mr. Taylor: Ken Taylor, for the record. On the County Manager, page 13, number (3). Again, it says "Attend all council meetings." It should say "he or his appointee should attend all council meetings." In reference of the Planning Director on page 23, "The planning director shall be appointed and may be removed by the county manager. He shall have a college degree in either planning, engineering, or architecture..." I really believe the Planning Director should have a degree in municipal planning or architecture. But the engineering, an engineer is not well-qualified for a planner and I think that should be changed. In reference to the Planning Commission, you have basically used the same criteria for Commissioners as before. At least two (2) members shall have the knowledge and awareness of environmental concerns, and two (2) shall be knowledgeable in business concerns and labor organization concerns. I would leave that more open and you could put that criteria in an ordinance and not tie it up because if the time comes where you have difficulty in placing one of these people on the Planning Commission, it makes it very difficult where if in an ordinance you just say that when possible,

this criteria is used for the appointment. But it leaves the door open that if there is nobody, that you would be able to fill it with somebody. Right now, I understand there are problems because the time consumption that is being required because of a number of large projects as well as all of the timeshare or illegal vacation rentals et cetera that are being contested and so on are taking a lot of time for a volunteer group. I know at the Charter Review Commission the Planning Director has been asking for a Charter change to establish a zoning board that would be separate. Right now, that zoning comes under the Planning Commission and he is trying to separate it so they can eliminate some of the problems of time consumption. I think it would be wise to take a good look at that. Thank you.

Council Chair Rapozo: Thank you. I believe the Planning Commission has a sub-division committee. They could have a zoning committee. I think they can...what?

Councilmember Yukimura: It is still more time.

Council Chair Rapozo: I know.

Councilmember Yukimura: They are trying to lessen the time.

Council Chair Rapozo: Yes.

Councilmember Yukimura: So having two (2) separate Committees with different people other than Planning Commissioners, so maybe a zoning board.

Mr. Mickens: For the record, Glenn Mickens. For people like my friend, the Judge, I just want to make sure I put this on and you hear this continually. There is nothing wrong with the system. It is not broken. I just want to make sure we put this on the record. This is not something that just happened yesterday. Most of these things have been going on and on. Traffic has increased and gotten worse by the day. No new bypass roads have been built to alleviate traffic and make it safer for the driving public in case of natural disasters or even ambulances trying to get through that mess down there. They are going to be sitting there and somebody could die. Our roads are the worst in the State. No curbside recycling, Councilmember Yukimura. These have been projects of yours, I do not know, ten (10) years or whatever. They have been going on and on.

Councilmember Yukimura: Try forty (40).

Council Chair Rapozo: Like one hundred (100) years.

Mr. Mickens: No Metals Recycling Facility (MRF). But the rest of the Nation no new landfill, another one, Councilmember Yukimura. Five hundred (500) homeless people still being ignored. We have them sitting out here in front of our Council Chambers and what do we do about it? It is still ongoing, right? Our landfill is still unabatedly overflowing. Our infrastructure deteriorating on a

daily basis with no solutions being implemented. We are spending five million two hundred thousand dollars (\$5,200,000) on a multi-use path with no oversight to see why such outrageous costs are being expended on a ten (10) foot wide, four (4) inch slab of cement, whereas our roads resurfacing project is costing three hundred fifty thousand dollars (\$350,000) per mile for a twenty (20) foot wide road. Something is very wrong there. I know Councilmember Hooser said he loves the bike path, which a lot of people do. He walks on it with his wife. But the point is there has to be some oversights in. We are spending that outrageous amount of money for a path that is ten (10) feet wide, four (4) inch slab? We are putting nine million dollars (\$9,000,000) a year in our Solid Waste program...

Council Chair Rapozo: Glenn, keep the paper away from your microphone because you are blowing out Allison's...oh, you do not have headphones?

Mr. Mickens: Sorry about that.

Council Chair Rapozo: Oh, okay.

Mr. Mickens: We are putting nine million dollars (\$9,000,000) a year in our Solid Waste program with no solution in sight. Our illegal vacation rentals proliferate with no stoppage. You remember only too well how former Council Chair Kaipo Asing sat here and put things up on that wall and everything showing the illegal things. Did our elected officials do anything about it? No. It had to take who? Joan Conrow and Barbara Robeson. That is who they kept citing. Her blog had to tell us where these places were. We are putting one million dollars (\$1,000,000) a year in our municipal golf course where it was once a true enterprise operation, income equals outgoing. We raised taxes and fees the same on everyone without first carefully looking at the waste in our government that our Auditor has uncovered. We have gone through that one hundred (100) times too.

The Mayor is doing all he can to eliminate our Auditor from a position that he has done outstanding...well, this is after-the-fact. Many Department Heads and key government employee jobs have been given to unqualified people for political reasons, Councilmember Yukimura. I am not pointing to you, Councilmember Yukimura.

Councilmember Yukimura: Talk to the Chair.

Council Chair Rapozo: I just want to ask that you speed it up because I want to make sure everybody has a chance and we do want to have some time too.

Mr. Mickens: Yes. Anyway, you can add a lot more to these things.

Council Chair Rapozo: Yes. Again like I said earlier, I really did not want to have the discussion on the merits because I think that is why we are here.

Mr. Mickens: Right.

Council Chair Rapozo: The Council feels that it is worthy of the discussion and the attempt, and I think this Council is making a very genuine effort. What I want to hear is if you have any suggestions as far as the document itself.

Mr. Mickens: Right.

Council Chair Rapozo: But that is what I want to hear.

Mr. Mickens: Well, I appreciate it. But when the Judge or other people come up here and testify and say, "The system is not broken. There is nothing wrong with it."

Council Chair Rapozo: Yes.

Mr. Mickens: Just hire the right people. I just want to say, "Hey, just take a look at yourself. Open your eyes and look at the facts. Not innuendos or anything. But just look at the facts." That is all. Again, I really appreciate the work you folks are doing and trying to do. You went up to Seattle, you really investigated these things, and all over the Country we are getting this type of a system of what? Fifty percent (50%) of the municipalities you saw are using this type of system? Again, we do not have to reinvent the wheel or come up with a different idea. It is there. Anyway, thank you, Council Chair Rapozo.

Council Chair Rapozo: Thank you.

JOE ROSA: For the record, Joe Rosa. I do not have any specific section that I want to talk about. But overall, I always spoke for the Council-Manager system. Basically, I have seen Department Heads come in here at Council Meetings not prepared. That is the kind of thing that, as they say, the lack of accountability. I am pretty sure that every Department, prior to coming to this Council here to testify, has notice. The same song has been played and sung over and over. "Oh, we do not have it ready right now. We will have it ready in another week or two (2)." I have heard the Chair always say he is getting tired of it time and time again. The same song. That is accountability. That shows that the Department Heads are not getting the job done with their people. Are the staff members not qualified to do the job? As I said, I have heard a previous statement from a certain person always saying, "Why make a change when there is no wrong?" It is time that the Charter is upgraded. Change is for the good. Right now, things are not working smoothly. It is (inaudible). How many Mayors prior to getting elected said "We have to take care of the infrastructure?" People said that is a need. That is a priority. So we elect a person that is pushing for the infrastructure. But when they get back in this office, the priority is forgotten. Nothing has been done. I followed and I worked with the State. The State highway system has gone in total neglect after the State took back the planning of each island of the highway system. They took it away from every island and let those engineers sitting in a desk on Honolulu, and consulted to do the planning creation island. That is where I noticed this thing started to lag. I

worked thirty-six (36) years. In 1950 Councilmember Yukimura was about four (4) years old.

Councilmember Yukimura: One (1) year old.

Mr. Rosa: When I started with the highways with Kapule as the *mauka* highway. That is how long ago this highway system was planned and nothing was done. They started to take Kapule Highway, but then all of a sudden, we had a wash out at Kapaia in 1966/1967. We did that. We restored it and then they put a truck climb in to ease up Kīlauea Plantation trucks and the Lāwaʻi Hawaiian Cannery and food packers that used to delay the traffic. In 1968, they did the Hanamāʻulu side. So those are the kinds of things that delayed Kapule Highway from becoming a reality with those two (2) little Band-Aid jobs. They give Kauaʻi those Band-Aid jobs and it catches up in the end. Finally, they had to build Kapule Highway in 1984. They built from the airport to Rice Street and then they continued the last leg from the airport to Hanamāʻulu. Those are the kinds of things that the County has to see the State Transportation Department or the Governor to give back the system of the highways to each island. It is not a County project. I said, "Hey, do not go see the County. You are barking up the wrong tree. Go see the Governor. Go see our Legislators." With this form of County management, they would be accountable for people who are appointed to head the Department, the Department to get the staff to do that work, and not come here and say, "Oh, next week we will have it ready." They knew they were going to be here and make the testimony, and yet nothing was done. I worked with the Department of Transportation (DOT) when the Legislature...

Council Chair Rapozo: Okay, Joe. I am just going to ask that you wrap it up because you are at six (6) minutes already.

Mr. Rosa: Okay. I am closing right now. As I said, our boss would tell us, "We have to get this thing done so the Legislature can get the funding before the Legislature closed." So we all worked together and got it done and got it out. That is what accountability is. But that is what is lacking here. Too much "hanky panky" going on. I do not know. But we need to change for the good right now because it is not getting any better. Like I said, I would eliminate two (2) positions as Public Information Officer. You do not need three (3). You need only one (1). We have one (1) newspaper. Thank you.

Council Chair Rapozo: Which is the newspaper, Joe?

Mr. Rosa: What?

Council Chair Rapozo: What paper do we have?

Mr. Rosa: Just The Garden Island here on Kauaʻi.

Council Chair Rapozo: Oh, okay. I thought it was the tabloid. Anyone else? It is an insult to the term "newspaper" that, The Garden Island. Anyone else?

JEROME "THE SHADOW" FREITAS: Too bad we are not on tv, right?

Council Chair Rapozo: We are on tv.

Mr. Freitas: I can sing a song for you folks.

Council Chair Rapozo: No, we are on tv. The camera is working.

Mr. Freitas: Okay, forget it then.

Council Chair Rapozo: No, I am just kidding.

Mr. Freitas: Anyway, the reason I am here is because we are talking about County Manager, right?

Council Chair Rapozo: Can you just state your name, Jerome?

Mr. Freitas: Jerome Freitas.

Council Chair Rapozo: Thank you.

Mr. Freitas: I know a lot of people are talking about accountability. When you get something done, you are accountable, right? But it takes teamwork, right, people to do all things, both sides. Accountability is something that I read in the dictionary what accountability is. It says that you have to do your job, right? Where does it start from? It starts from the Mayor, you have the Department Heads, and going all the way down, right? Where is the linkage? Where is the problem? That is the question. What is the relationship? The question is this, well, you have the Department Head, Lenny Rapozo, Ian Costa, you have another person, another person, and still yet nothing is being done. I remember my brother-in-law, Larry Saito. Do you remember Larry Saito? He was the (inaudible) parks, right?

Council Chair Rapozo: Yes.

Mr. Freitas: So whoever is the person right now, he is responsible. You have people below him, right, all of the different parks? That is the problem right there. Accountability. Next, I am going to talk about pay raises. When you get a pay raise, you deserve it, you get it. You do not do a good job, you are going to get no raise at all, period. I do not care. That is how I feel. No raises right now. We do not have any money. Maybe they can get a raise maybe a percentage when you have a JPR, which is a Job Performance Review, right? But when you play

politics, it would happen. When you appoint somebody that is on your team, it is impossible. You cannot.

Now talking about the reason why the County Manager is because things that...I have a stack of questions and answers from way back. A lot of things. For everything, I had to call people up. They never did it on their own. Another one that is very important, Keālia Beach. On the weekend, do you know how much people go there? Over one hundred fifty (150) cars. They tell me, "Jerome, we need bathrooms. We need restrooms. We have to walk too far." I call them up. We have one (1) over that side. Just like that. They do not have any feelings. I think that is wrong. That is not government. That is not open government. I called the Department of Health and told the Department of Health. So they are going to check it out. Things that I have been all these years, I am going to give you an example. You folks might know that, right?

Council Chair Rapozo: I am just going to ask you to wrap it up, Jerome, because I think...are you going to speak, Mr. Hart?

Mr. Freitas: Okay.

Council Chair Rapozo: And then we only have twenty (20) minutes left.

Mr. Freitas: I want to talk about the Kapa'a Transfer Station. The compactor machine is wiped out. That has been going on for years. That is accountability. Wailua Houselots substation, it was smelly for how many years? Accountability. Lydgate Beach Park like Keālia Road. You go over there, I live up Keālia, they go with the tractor, there is a sign there all covered with vines, they cannot think to take the vines off of the sign. You cannot see the sign. They do that three (3) times in a row. I told Sarah, "Sarah, what is happening with you folks?" You better go tell your Supervisor to go down there. You have to go check the job when it is done. That is it.

Kilauea Gym is history. You know that. Līhu'e Post Office, same thing. Three (3) men fell down. I think Councilmember Yukimura's dad fell down there, right?

Councilmember Yukimura: Yes.

Mr. Freitas: And then Dennis (inaudible), you know Dennis, right? Two (2) more people, and he got paid for that. The County paid him three thousand five hundred dollars (\$3,500).

Council Chair Rapozo: Jerome, I am going to give you two (2) more minutes, okay?

Mr. Freitas: I get two (2) more?

Council Chair Rapozo: Yes, I will give you two (2) more minutes.

Mr. Freitas: Okay. Kapa'a, they have a drain right there by the service station in Kapa'a when you go to Fuji Beach. It clogs up every time when it rains. Four (4) years. The other one is Kanahele Road when you go to Hoala. The drain clogs every time. Council Chair Rapozo, do you know Hau'a'ala Road? They paved (inaudible) and then another two hundred (200) feet, they do not pave at all. They skipped. I called Sarah and she said, "That is the way they do it nowadays. I do not think so. Can you go find that out?"

Council Chair Rapozo: Hau'a'ala?

Mr. Freitas: Yes. What about the one too by the Fire Department? They have the sign for a crosswalk, but there is no crosswalk.

Council Chair Rapozo: Yes, we are waiting for the responses on those.

Mr. Freitas: But do you see what I am saying? It is accountability. That is it.

Council Chair Rapozo: Thank you.

Mr. Freitas: Thank you very much for giving me the chance to speak. Hey tv, how are you folks on the tv?

Councilmember Yukimura: Thank you, Jerome.

Mr. Hart: For the record, Bruce Hart. I have advocated for a lot of things and I know you folks know my position in everything. But I want to say one (1) thing. I am not against this going to the ballot. I said that last time. I want to make it plain to everybody. I am not against it. In fact, I would like it to go to the ballot. Let the people decide. Now I have something to share. It is about the County Manager system. It was written and I do not know if people saw it. It was in the February 8th issue of The Garden Island. With some humor I read this and I read it with humor. I make one (1) amendment to this letter from Linda Estes, and I will explain on her behalf. But I am going to make that amendment two (2) words. It is very short. She says, "I do not support the County Manager form of government because I believe it is better for the voters to elect the top official in the County rather than have that person selected by five (5) members of the Council. Those who advocate for the County Manager system want to be sure that the person leading the County has proper academic credentials and successful administrative experience in municipal government. I think that we could satisfy those criterion by electing Council Chair Rapozo as Mayor."

Council Chair Rapozo: Oh.

Councilmember Hooser: So what does that say about me?

Mr. Hart: She says Nadine Nakamura. In full disclosure, Council, if this does not work out and it does not...I mean, it is not going to happen this year. My choice for Mayor is Council Chair...

Council Chair Rapozo: No. Do not campaign in a political forum.

Mr. Hart: Okay.

Council Chair Rapozo: Thank you.

Mr. Taylor: One (1) more, quick one.

Council Chair Rapozo: No. Sorry, because we only have fifteen (15) minutes. I apologize, Ken. I am trying to be as flexible as I can. But I want to make sure we give the Council an opportunity to speak. We have fifteen (15) minutes left. Where do we go from here, Councilmembers?

Councilmember Yukimura: I mean, I think we should finish our work. But I think it is going to take far more time than we have to give before the deadlines for this coming General Election. I think we should just map out some meeting time and then it has to go to the attorneys. There are so many issues that have to be resolved that we should aim for a Special Election or maybe the next General Election beyond this year. So that would be the 2018 General Election.

Council Chair Rapozo: If we can do a Special Election, I definitely would not be opposed to that. I think I said in your absence, Councilmember Yukimura, that I am beginning to think that you are correct when we talked about the timing. I am not going to rush this by any means. We are just going to go through this and if we can get it done, we will get it done. If we cannot, we cannot. But I am not going to rush it. I think your suggestion or several of you talked about having a joint session with the Charter Review Commission. I think that has to be scheduled in. But you are right. As we saw today, and even if we had gone to 4:30 p.m. today, I think the amount of work that needs to be done is pretty significant. I think and I hope the members in the public can appreciate that. I know the feeling of the public or certain members of the public was that this was a simple thing and I kind of thought we could move. But yet, as we found out today, you tweak one (1) part of it, then you have to check with the attorneys. I am in total agreement with Councilmember Yukimura. Anything else? Councilmember Hooser.

Councilmember Hooser: I think this is going to take a lot of work to make this ready. But I am not opposed to plotting along in two (2) weeks or whatever on a regular basis, keep doing these kinds of meetings and moving forward.

Council Chair Rapozo: If we want a shot at this, I mean, it is going to have to be more frequent than every two (2) weeks.

Councilmember Hooser: Okay.

Council Chair Rapozo: That is the reality of it.

Councilmember Hooser: Okay.

Council Chair Rapozo: And that is something...can we commit to once a week? I mean, I can commit to once a week. But can everybody else commit to once a week? I know everybody is busy. We loss Councilmember Kaneshiro. It is tough.

Councilmember Kualii: We do not have amendments.

Council Chair Rapozo: Yes.

Councilmember Hooser: I will speak for myself. If I could schedule it, I mean, if I know it is going to happen, then I will schedule it and I can make it once a week. Next week, I probably cannot because I have already scheduled next week. But if we could get our schedule or we can wait until the County Attorney delivers their opinion. But I am okay with continuing to work on it.

Councilmember Kualii: Yes.

Council Chair Rapozo: Councilmember Kualii.

Councilmember Kualii: Just to be totally honest, I do not want to continue this way. We are looking at every word and section by section. I would rather shift gears back to the framework that the three (3) of us in the sub-committee, advisory committee came up with, then we all take our paperwork as individuals and we all just pick our formulations and try to at least come to an agreement of that because if at that level we do not have five (5) people agreeing on those basic ten (10) decisions, if you will, then all sections and how the words spell out for implementing that basic structure is for nothing. I think we might either more quickly find out where we all agree or where we just cannot agree and we need to stop. But if we continue this way, we may go through the whole thing and not have five (5) votes. We may spend a year and a half or a year, or eight (8) months, or whatever. We are going to spend a lot of time trudging along this way rather than at least us on our own saying what our ten (10) decisions are. I do not know. Maybe when we come back together, we can convince each other in different ways or at least talk about why we felt strongly that way. I mean, we got to one (1) decision today about eight (8) instead of seven (7). My ten (10) points where I would have decided, I would have had the one with seven (7), which is like what was in this written proposal. But then I could have moved to what we ended up with. But I do not know if with this document and all of these...I think we can get there quicker if we used the shell instead of the whole, the shell of the ten (10) most important decisions rather than every section by section.

Council Chair Rapozo: Councilmember Yukimura.

Councilmember Yukimura: It is really hard for me to have something scheduled with very little notice. I have a 2:00 p.m. meeting. I think the thing was scheduled until 2:00 p.m. because I have a 2:00 p.m. meeting and they wanted a time. I would like to see a full calendar of meetings so we know way ahead of time. But also, the reason I am advocating a longer time is because I mean, I think once a week is too much. If we give ourselves a longer time, theoretically we can spread it out a little bit more. I am also quite uncomfortable with this thing not being televised because I think the discussion is part of the education that has to happen. With deference and apologies to those present, I think we need to have testimony from the public in the beginning and the end. We just cannot have a lot of public testimony because it just makes things much longer and we are not going to finalize anything in all of these meetings. Even the decision we made today, I think we were all there, sort of...what did we call it? A straw vote, because we are wanting to think about it more and see how things interrelate when we come to related sections and things like that. I have feral cats, affordable housing, and fuel tax; big issues that I meet for two (2) hours a week. Well, maybe two (2) hours every two (2) weeks, that I am working on. We are moving into an election season, which also makes it...there is just much more things to attend to. The first question is if we can have a Special Election because I think maybe some people do not want to draw this thing out until the General Election of 2018. That might be one thing. Then we know what our timeframe is and we can back up from it. When does it have to go the attorney, when does it have to be put in ballot format, and back up and see when we would have to get our basic decision making done. What is our end date? Is it is Special Election next year, or is it a General Election in 2018, or is it this General Election? Although I think that is highly unlikely given all of the other factors we have to deal with in this year, 2016.

Councilmember Kualii: I just want to put forward that if it is a Special Election, I am out. So you do not have five (5) votes.

Council Chair Rapozo: Okay.

Councilmember Yukimura: And why are you out?

Councilmember Kualii: I do not support a Special Election.

Councilmember Yukimura: Because?

Councilmember Kualii: Because it costs more money because of lower turnout. I want full democracy. I want it in a regular election, a presidential year if possible, so that more people are making the decision. That is just me. Two (2) of them are out and I am out.

Council Chair Rapozo: Okay, that makes it simple.

Councilmember Chock: Well that being said, it sounds like we have meet every week if we are going to have a shot at it.

Councilmember Kualii'i: Or in 2018 or 2020.

Councilmember Chock: Right. When you look at the whole picture, this is the right time. There is that...

Councilmember Yukimura: Can I say something?

Councilmember Chock: Hold on.

Council Chair Rapozo: Hang on.

Councilmember Chock: Let me finish. I am okay with that. I had already scheduled once a week meetings for our sub-committee. Thursdays work for me if that is what we want to continue, I can do that. I would agree that we need to get a little bit more focused on it. I kind of do agree with Councilmember Kualii'i as well that the first day we got together we had a list of things. We just asked, "How do we feel about this?" We put that in here, most of them. I do not know if we got to all of them. But then when we put them in here and we read them back and how they fit in, then that is when these nitty gritty questions came up like, oh wow. What does that really mean? I think both are important. So the outline form like general direction and then try and see how it fits in here is something we have to go through anyway. I am okay with it, to do that.

Council Chair Rapozo: Councilmember Yukimura.

Councilmember Yukimura: I just want to say that in response to Councilmember Kualii'i's ideas about a Special Election, certainly there is not as much of a turnout on a Special Election. But if this is the focus of the Special Election, you can bet that people will turn out because they want to vote on the issue and there is a lot more chance for education about it because you can focus on the issue. You do not have a lot of charter amendments or a lot of elections that are complicating it. To me, this is going to require a really major education effort and community discussion. I mean, I think it has been very positive how our discussions have gone because there are different perspectives, we listen to each other's perspectives, and we have most of the time come to some kind of consensus. But that is the kind of discussion we are going to have to have out in the public, I think. I just want to suggest that a Special Election might be a way to focus on the issue, really focus on the education, and have a pretty informed vote.

Council Chair Rapozo: Okay. You can lobby Councilmember Kualii'i later because he already said it is not going to happen. I kind of want to get more to the scheduling because my proposal would be every Thursday.

Councilmember Kuali'i: Can I say one (1) more thing?

Council Chair Rapozo: Yes.

Councilmember Kuali'i: The other thing is that I thought that the work of the advisory committee, which is done, to put this forward to the Council and that the Council would review that work, and that one (1) of us seven (7) would pick that up and put a proposal before the Council. But instead what we are doing is trying to come up with a proposal piece by piece to get to a place, I guess, where we think there is five (5) votes. But really, it should be the initiative of the one (1) Councilmember who wants to put it forward, who has the time to do the work, and who has the motivation. Do you know what I mean? Then in Council, we actually work on all of these things. That way it would be part of a regular Council Meeting. It would be on the television. It would be part of our schedule. I mean, I hope we could get there quicker. What we are trying to do is trying to develop a proposal by a group of people, whereas one (1) person could develop this proposal and put it forward if they had. Maybe if we still want to do the ten (10) big areas to straw poll so that person has some guidance on how to formulate their proposal on the big things. But when we try to devise this proposal on every little thing to get it to the place, that is why it is going to take forever.

Councilmember Hooser: I want to echo, to a certain extent, what Councilmember Kuali'i said. My preference would be to have a vehicle as we go. But I understand that because these issues are so big and there are so many of them, it would take a lot longer to do that. The investment of the time and energy by everyone not knowing if it is going to get anywhere, I think, is inhibiting. Perhaps what Councilmember Kuali'i eventually got to was maybe that is the direction we take. Ten (10) or whatever that name is, take ten (10) days and hammer through those big ones, and then whoever decides they want to take it on to develop a proper vehicle to put before the Council, then we go from there. I also think if a Special Election is not on the table, then that huge issue of what happens when there is a conflict of charter amendments that have passed. We pass our charter amendment and then there is another one that passes that is in conflict. So that question, I think, is key to the whole thing. I know the County Attorney's Deputy was here when we discussed that. I am assuming that you have discussed if there is a charter "A" amendment whatever the subject matter is and charter "B" amendment whatever the subject matter is, they both pass and there is a conflict, what happens, is the fundamental question. That makes it even more important and less important the issue of whether we can do a Special Election if it is not on the table.

Council Chair Rapozo: Okay. Well, it is 2:00 p.m. and we have to wrap it up because...

Councilmember Yukimura: Can I say one (1) more thing? If we are going to go for the General Election, somebody has to do a backwards scheduling because I do not think there is enough time. But somebody show me that there is.

Council Chair Rapozo: No, there is enough time. It is just...

Councilmember Yukimura: But if we want to do a good job...

Council Chair Rapozo: Right.

Councilmember Yukimura: My biggest fear is that we put something that is not ready on.

Council Chair Rapozo: You will not get five (5) Councilmembers to vote on a Charter Amendment Resolution if it is not ready. It will not happen.

Councilmember Yukimura: Okay. Then that is fine.

Council Chair Rapozo: These two (2) are voting "no." If you are not ready, it dies. So you are the deciding vote.

Councilmember Yukimura: Alright. But then...

Council Chair Rapozo: So you do not have to worry about that.

Councilmember Yukimura: But then if we are not going to be ready, then we should spread it out so we can spend more time on it in a deliberate way.

Council Chair Rapozo: Well, I mean, I...

Councilmember Yukimura: Okay. Whatever. You know me, I do as much as I can to make it move forward.

Council Chair Rapozo: Okay. Well again, in regards to the meetings, I would say the next meeting we do in two (2) weeks. Hopefully we get the attorney's opinions back.

Councilmember Yukimura: We have budget coming up too you know.

Council Chair Rapozo: Councilmember Yukimura, I let you and everybody else speak and I had no chance. It is 2:00 p.m. We all have budget. We all have meetings. We are all busy. Tell me right now, if you folks do not want to move forward, we are done.

Councilmember Yukimura: You just do not have to say every week. We do not have every week in our budget weeks. Every day is taken.

Council Chair Rapozo: Should we just shove it? As far as the televised meetings, I was just telling Peter maybe we should have televised these

meetings because it is part of the education process. But I am going to be frank. Look how cordial the Council is without the cameras.

(Councilmember Yukimura was noted as not present.)

Council Chair Rapozo: Look how friendly, laughing, and smiling. You put that camera on, something happens. Public participation, that is what a workshop is. The reason we are here today, and I am going to extend. I am going to leave myself a couple minutes. The reason we are here today is because the public came to Councilmember Chock and myself to do this. We put this on because we believed, and I will speak for myself, I will not speak for anybody else. But the last go around when the Commission looked at this, it was slanted. It was biased. It was done by a Commission that was appointed by the Mayor in the mid-term, which who in the heck was going to go recommend a system that would oust the Mayor? I wanted to give this effort and Councilmember Chock was brave enough to do this and take the bull by the horns willing to be the Chair of the sub-committee. We want to give this an honest effort. That is what, I think, we are doing. Now, the public wants us to hurry and I am going to be honest and frank with all of you. Every minute that you spend talking about the issues that you are concerned about takes away from the working time of the Council. If you folks want to spend, and again remember now, today I had to put a time because we were just running out.

Mr. Hart:

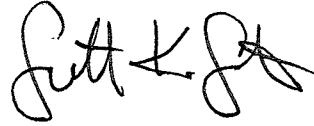
I am fine with the traffic light.

Council Chair Rapozo: I am probably going to have to do that as we move forward. But my point is this, and I encourage the testimony of the public. I will tell you, I have never been in a workshop and I am not taking credit for this, I am just saying. I have never been in a Council workshop where we had this kind of participation. To be honest, some of you folks repeat yourselves like Councilmembers do, including myself. But if the public wants to participate at that level, then just understand that that takes away the working time of the Council. So every hour of testimony that we deal with here, cuts an hour of working time of the Council. I am not going to apologize if we do not get this done before the election because we are going to give it an honest shot. I think the discussion we had today, correct me if I am wrong, was great. Councilmember Hooser came up with some issues that his one (1) semester of law school was "uh oh." Now, the County Attorney is going to have to work on that. But that is what is going to happen in this process. Maybe Councilmember Yukimura is right. Maybe we cannot do it by the General Election. But I do not think we should stop trying. I do not think we should stop trying. As Councilmember Kuali'i said, maybe we cannot do it. Maybe this Council will be long gone. But at some point, somebody will be able to use the information that we have done. With that, thank you for your time. I am going to have to adjourn the meeting because it is pass 2:00 p.m. and that is a Sunshine Law violation that I am already violating. I am going to go to jail. The workshop will now close.

ADJOURNMENT.

There being no further business, the Council Meeting adjourned at 2:05 p.m.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Scott K. Sato", with a stylized flourish at the end.

SCOTT K. SATO
Deputy County Clerk

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